

**NORTHERN TERRITORY OF AUSTRALIA**

**UNIT TITLES ACT**

As in force at 1 July 2009

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 1 July 2009. Any amendments that commence after that date are not included.

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## UNIT TITLES ACT

**An Act relating to the subdivision of land into units and common property, and for other purposes**

### **Part I Preliminary**

#### **1 Short title**

This Act may be cited as the *Unit Titles Act*.

#### **2 Commencement**

This Act shall come into operation on a date to be fixed by the Administrator by notice published in the *Gazette*.

### **Part II Interpretation**

#### **4 Interpretation**

(1) In this Act, unless the contrary intention appears:

***administrator*** means an administrator appointed under section 90.

***building***, in relation to proposals for subdivision, includes a building proposed to be erected.

***building development*** means the subdivision under this Act of a parcel and its development in accordance with a disclosure statement as defined in section 26ZF.

***Building Development Parcel*** means a parcel to be subdivided into building lots and common property in accordance with Part IVC.

***building development plan*** means a building development plan of subdivision lodged under section 26ZI.



**building lot** means a part of a Building Development Parcel that may be further subdivided into common property and 2 or more units in accordance with Part III or IVA.

**building management corporation** means a body corporate constituted under section 28(1).

**committee** means the committee of a corporation constituted by section 32.

**committee-man** means a member of a committee.

**common property** means so much of a parcel as is not within a unit.

**condominium development** means the subdivision under this Act of a parcel and its development in stages in accordance with a disclosure statement as defined in section 26A.

**corporation** means a body corporate constituted under section 27 or 28.

**estate development** means the subdivision under this Act of a parcel and its development (whether or not in stages) in accordance with a disclosure statement as defined in section 26N.

**estate management corporation** means a body corporate constituted under section 27(1) in relation to an estate development.

**floor** includes a stairway and ramp.

**floor area**, in relation to a cubic space, means the area occupied on a horizontal plane by the base of that cubic space.

**floor plan**, in relation to a building, means a plan, consisting of one or more sheets, which:

- (a) defines by lines (in paragraph (c) of this definition referred to as **base lines**) the base of each vertical boundary of every cubic space forming the whole of a proposed unit, or the whole or any part of a proposed unit, to which the plan relates;
- (b) shows:
  - (i) the floor area of such cubic space; and
  - (ii) where the cubic space forms part only of a proposed unit, the aggregate of the floor areas of every cubic space that forms part of the proposed unit; and

- (c) where proposed units or parts of proposed units to which the plan relates are superimposed on other proposed units or parts of proposed units to which the plan relates:
  - (i) shows the base lines in respect of the proposed units or parts of the proposed units that are so superimposed separately from those in respect of the other proposed units or parts of proposed units upon which they are superimposed; and
  - (ii) specifies, by reference to floors or levels, the order in which that super-imposition occurs,

and, in relation to an estate development, means a lot plan of the lots and common property into which the parcel is or is proposed to be subdivided.

**general meeting** means a general meeting of a corporation.

**improved capital value** means the amount which a unit might be expected to realise if offered for sale on such reasonable terms and conditions as a seller in good faith would require, but in relation to a unit being premises occupied for trade, business or manufacturing purposes, does not include the value of plant, machines, tools or other appliances which are not fixed to the premises or which are only so fixed that they may be removed without causing structural damage to the premises.

**improvements** includes fittings and fixtures.

**licensed surveyor** means a licensed surveyor within the meaning of the *Licensed Surveyors Act*.

**location plan** means a plan, consisting of one or more sheets, which relates to land and delineates the perimeter of that land and, in relation to that perimeter, the location, drawn to scale, of all buildings erected or proposed to be erected on that land and of any part of a proposed unit not within a building.

**majority resolution**, see section 7(6).

**management module** means a management module prescribed by regulation under section 58.

**member** means a member of a corporation.

**mortgage** means a mortgage within the meaning of the *Land Title Act*, and **mortgaged** has a corresponding meaning.

**mortgagee** means the registered proprietor of a mortgage.

**ordinary resolution**, see section 7(7).

**original proprietor**, in relation to a units plan, means the person by whom the parcel was held at the time of registration of the units plan.

**parcel** means the whole of the land comprised in a proposal for the subdivision of a parcel of land or in a units plan, as the case may be and, in relation to a condominium development or an estate development to be completed in stages, where the context so requires, includes the land comprised in the parcel other than that comprised in a previously completed stage of the condominium development.

**proprietor**, in relation to a unit, means the registered proprietor.

**registered** means registered in the Register:

- (a) under the *Land Title Act*; or
- (b) under the *Real Property (Unit Titles) Act*,

and **register** and **registration** have corresponding meanings.

**Registrar-General** includes an acting or Deputy Registrar-General.

**resolution without dissent**, see section 7(5).

**schedule of unit entitlement** means the schedule referred to in section 11, 21D or 26C(2)(f).

**special resolution**, see section 7(8).

**stage**, in relation to an estate development, means a separate part of land into which the Estate, as defined in section 26N(1), is subdivided and in respect of which the relevant consent authority has certified under section 65 of the *Planning Act* that the requirements of that Act have been complied with.

**structural cubic space** means:

- (a) cubic space occupied by a vertical structural member, not being a wall, of a building;
- (b) pipes, wires, cables or ducts in a building not for the exclusive enjoyment of one unit; or
- (c) cubic space enclosed by a structure enclosing such pipes, wires, cables or ducts.

**Surveyor-General**, see section 4 of the *Licensed Surveyors Act*.

**the Court** means the Local Court.

**unanimous resolution**, see section 7(4).

**unit**, except in Part III and subject to section 26P, means one or more cubic spaces forming part of the parcel to which a units plan relates, the base of each such cubic space being designated as one unit on the floor plan which is part of the units plan, being cubic space the base of the vertical boundaries of which is as delineated on that floor plan and which has horizontal boundaries as ascertained under subsection (2), but does not include a structural cubic space unless it has boundaries described as prescribed and it is described in the floor plan as part of a unit.

**unit entitlement**, in relation to a unit, means the number specified in the schedule of unit entitlement as the unit entitlement for the unit, being a whole number that represents, as nearly as practicable, the proportion that the value of the unit bears to the aggregate value of the units contained in the units plan where the value of each unit is established by reference to its improved capital value at the date the schedule of unit entitlement is certified for the purposes of section 11(1)(b), 21D or 26C(2)(f).

**units plan** means all the documents referred to in section 20(1) and endorsed under that section, being documents relating to the subdivision of the relevant parcel and, in the case of a units plan relating to a completed stage of a condominium development or an estate development, includes all those documents relating to that completed stage and all previously completed stages of the condominium development or an estate development.

**valuer** means a valuer within the meaning of the *Valuation of Land Act*, and includes the Valuer-General.

**wall** includes a door, window or other structure dividing a unit from common property or from another unit.

- (2) The boundaries of a cubic space referred to in paragraph (a) of the definition of **floor plan** in subsection (1):
  - (a) except as provided in paragraph (b) of this subsection are:
    - (i) in the case of a vertical boundary where the base of a wall corresponds substantially with a line referred to in paragraph (a) of that definition – the inner surface of that wall; and

- (ii) in the case of a horizontal boundary where a floor or ceiling joins a vertical boundary of that cubic space – the upper surface of that floor and the under surface of that ceiling; or
  - (b) are such boundaries as are described on a sheet of the floor plan relating to that cubic space (those boundaries being described in the prescribed manner by reference to a wall, floor or ceiling in the building to which that floor plan relates or to structural cubic space within that building).
- (3) A reference in this Act to cubic space includes a reference to space contained in any three-dimensional geometric figure.
- (4) The fact that a boundary is defined in a units plan in terms of or by reference to:
  - (a) a wall that is not vertical; or
  - (b) a floor or ceiling that is not horizontal,does not prevent that plan from being a floor plan.
- (5) A reference in this Act to:
  - (a) a units plan, a units plan of subdivision, a units plan of consolidation or a building alteration plan is a reference to a plan registered as such; or
  - (b) a notice of conversion is a reference to a notice registered as such,together with all endorsements required to be made on, and all plans and documents required to accompany, the plan or notice before it may be registered.
- (6) A reference in this Act to a subdivision of a unit or common property is a reference to the alteration of the boundaries of:
  - (a) one or more units so as to create 2 or more different units;
  - (b) one or more units so as to create one or more different units and common property;
  - (c) one or more units and common property so as to create one or more different units or one or more different units and common property; or
  - (d) common property so as to create one or more units,

but does not include a reference to the consolidation of 2 or more units into one unit or the conversion of one or more units into common property.

- (7) A reference in this Act to a unit includes a reference to all unit subsidiaries appurtenant to that unit before the commencement of section 3 of the *Unit Titles Amendment Act 1986*.
- (8) A reference in this Act to a schedule of unit entitlement certified by a valuer means that the valuer certifying the schedule has established the unit entitlement of each unit appearing in the schedule by reference to the improved capital value of the units at the date of certification.
- (9) In section 7, Parts IIIA, V, VA, VI, VII, VIII and IX and Schedule 1, unless the contrary intention appears:
  - (a) a reference to **units** is to be read as including a building lot; and
  - (b) a reference to **units plan** is to be read as including a reference to a building development plan.

## **5 References to proprietor or mortgagee**

In this Act, unless the contrary intention appears, a reference to a proprietor or mortgagee shall be read as including:

- (a) in the case of a natural person – a reference to the heirs, executors, administrators or assigns of that person or to a person in whom the property of the first-mentioned person is vested, or by whom that property is controlled, under the *Bankruptcy Act 1966* of the Commonwealth; or
- (b) in the case of a body corporate other than a corporation – a reference to its liquidators or assigns.

## **6 Plural references to members, proprietors or committee-men where only one exists**

In this Act, a reference to:

- (a) members, in relation to a corporation with only one member;
- (b) proprietors, in relation to units in a case where the relevant corporation has only one member; or
- (c) committee-men, in relation to a committee with only one committee-man,

shall be read as a reference to the person who is that member or committee-man.

## 7 **Methods of voting**

- (1) Subsections (2) to (7):
  - (a) apply for voting about a resolution of a corporation at a meeting of the corporation; and
  - (b) apply with changes specified in the management module:
    - (i) for voting about a resolution of the corporation otherwise than at a meeting; or
    - (ii) for voting about a resolution of the committee of the corporation; or
    - (iii) for a specified purpose of this Act.
- (2) Only 1 vote may be exercised for each unit.
- (3) Except as otherwise provided by the management module, voting may be made:
  - (a) personally or by proxy; and
  - (b) by show of hands or in writing.
- (4) A motion is passed by a **unanimous resolution** if the number of the votes counted in favour of the motion is equal to the total number of the units.
- (5) A motion is passed by a **resolution without dissent** if no vote is counted against the motion.
- (6) A motion is passed by a **majority resolution** if the number of the votes counted in favour of the motion exceeds 50% of the total number of the units.
- (7) A motion is passed by an **ordinary resolution** if:
  - (a) the following conditions are satisfied:
    - (i) this paragraph applies under the management module;
    - (ii) the unit entitlements of the units for the votes counted in favour of the motion exceed the unit entitlements of the units for the votes counted against it; or

- (b) otherwise – the votes counted in favour of the motion are more than the votes counted against the motion.
- (8) A motion is passed by a **special resolution** if:
- (a) at least two-thirds of the votes cast are counted in favour of the motion; and
  - (b) the unit entitlements of the units for the votes counted against the motion do not exceed 25% of the unit entitlements of all the units.

## **Part III                      Proposals for subdivision**

### **9                      Units**

- (1) In this Part a reference to a unit shall be read as a reference to:
- (a) a part of the parcel, being part of a building, bounded by reference to floors, walls and ceilings, or such part of the parcel together with land in the parcel whether or not that land is contiguous to the part;
  - (b) a part of the parcel, being a part containing a building or part of a building and being unlimited in its vertical dimensions except to the extent of any projection above, or encroachment below, ground level by another part of the parcel, or such a part of the parcel together with land in the parcel which is not contiguous to the part; or
  - (c) in the case of an estate development, a part of the parcel unlimited in its vertical dimensions.
- (2) In this Part a reference to **parcel** is to be read as including a reference to a building lot.

### **10                      Proposals for subdivision**

- (1) The registered proprietor of:
- (a) an estate in fee simple in land;
  - (b) a lease granted under the *Crown Lands Act*; or
  - (c) a building lot,
- may, in respect of that parcel of land, apply to the Surveyor-General for approval of proposals for the subdivision of the parcel under this Act.



- (2) The proposals shall provide for the subdivision of the parcel into units and common property.

## **11 Documents to be included in proposals**

- (1) The proposals shall include:
- (a) diagrams showing the manner in which it is proposed to subdivide the parcel and allotting to each unit a number;
  - (b) a schedule certified by a valuer specifying:
    - (i) in respect of each unit – the unit entitlement for that unit; and
    - (ii) the aggregate unit entitlement proposed for all the units; and
  - (c) where the proposals provide for the erection or alteration of, or an addition to, a building – a copy of the plans and specification for the erection, alteration or addition.
- (3) If a lease has been granted under the *Crown Lands Act* for the whole or part of the parcel, the proposal must be accompanied by:
- (a) the written consent of the Minister administering that Act to the proposed subdivision; and
  - (b) any other documents required by the Registrar-General for the conversion of the interest in the lease into an estate in fee simple.

## **12 Nature of diagrams to be included in proposals**

- (1) The diagrams referred to in section 11(1)(a) shall include:
- (a) a location plan and a floor plan in respect of the parcel;
  - (b) where the proposals provide for a building to be so subdivided that one unit is wholly or partly above another unit – a separate diagram for each floor of the building showing sufficient particulars, at floor level, from which the vertical boundaries of each unit on that floor are ascertainable, without necessarily specifying any bearings or dimensions;
  - (c) where the proposals provide for a building to be subdivided into 2 or more units otherwise than in the manner referred to in paragraph (b) – a diagram showing sufficient particulars, at floor level, from which the vertical boundaries of each unit are ascertainable without necessarily specifying any bearings or

dimensions; and

- (d) where the proposals provide for a unit referred to in section 9(b) that is limited in its vertical dimensions by a projection above, or encroachment below, ground level by another part of the parcel – a statement on the diagram on which the unit is shown to the effect that the unit is so limited and stating the nature of the limitation.
- (2) Except in the case of a proposed estate development, a diagram referred to in subsection (1)(b) or (c) shall show the approximate floor area of each unit.
- (4) Subject to subsection (1)(b) one or more diagrams referred to in that subsection may be combined.

## **15 Approval of subdivision**

- (1) Subject to section 16, the Surveyor-General shall:
  - (a) in respect of an application for approval to subdivide a parcel of land held in fee simple – approve the proposals; or
  - (b) in respect of an application for approval to subdivide a parcel of leasehold land – approve the proposal on the condition that:
    - (i) the registered proprietor is not in breach of a covenant contained in the lease, or a section of the Act under which that lease was granted, in respect of that lease; and
    - (ii) the registered proprietor will obtain a grant of an estate in fee simple in the parcel of land under the *Crown Lands Act*.
- (2) Where the registered proprietor of a parcel of land is in breach of a covenant or section referred to in subsection (1)(b), the Surveyor-General may, in his discretion, approve the proposals.

## **16 Condition of approval**

The Surveyor-General shall not approve the proposals unless:

- (b) the schedule of unit entitlement is certified by a valuer; and
- (c) the proposals conform to sections 9 to 15 inclusive; and

- (d) a development permit or exceptional development permit has been issued under the *Planning Act* indicating:
  - (i) the consent of the relevant consent authority under that Act to the subdivision of the land in accordance with the proposals; and
  - (ii) that the determination to which the consent relates is conditional on the applicant's compliance with the provisions in the proposals.

### **17 Conditional approval of subdivision**

An approval under section 15 shall, in the case of proposals referred to in section 11(1)(c), be expressed to be subject to the condition that:

- (a) the erection or alteration of, or addition to, the building will be completed in accordance with the proposals; and
- (b) where the proposals relate to a parcel of leasehold land – the application for a grant of an estate in fee simple under the *Crown Lands Act* will be made after the completion of the erection or alteration of, or addition to, the building,

within such time as is specified in the approval or within such extended time as the Surveyor-General from time to time allows.

### **18 Documents to be forwarded to proprietor by Surveyor-General**

Where the Surveyor-General has approved the proposals, he shall cause to be forwarded to the proprietor of the parcel notice in writing that he has approved the proposals or, if the approval is subject a specified condition that he has approved the proposals subject to that condition being complied with.

### **19 Final approval where conditions complied with**

Where a conditional approval has been granted, the Surveyor-General shall, on an application made for the purpose by the proprietor of the parcel, give his final approval to the proposals if the conditions have been complied with but, in any other case, the Surveyor-General may, in his discretion, grant or refuse to grant final approval of the proposals.

**20 Endorsement of units plan for registration**

- (1) Where approval, not being a conditional approval, of the proposals has been granted or, a conditional approval having been granted, final approval of the proposals has been granted under section 19, the proprietor of the parcel may submit to the Surveyor-General for endorsement under this section:
  - (a) in the case of a unit development or condominium development – diagrams showing the subdivision in accordance with the proposals as so approved;
  - (aa) in the case of an estate development – a plan of survey prepared by a licensed surveyor showing the subdivision in accordance with the proposals as so approved; and
  - (b) the schedule of unit entitlement certified by a valuer as so approved;prepared in accordance with the requirements of the *Real Property (Unit Titles) Act*.
- (2) Each sheet of the document referred to in subsection (1) shall be signed by the proprietor of the parcel.
- (3) There shall be endorsed on the location plan or floor plan referred to in section 12(1)(a) a certificate by a licensed surveyor, on the appropriate form prescribed under the *Real Property (Unit Titles) Act*.
- (4) The Surveyor-General shall make on the appropriate form prescribed by the *Real Property (Unit Titles) Act* an endorsement that the documents are approved for registration under that Act and affix his signature to, and note the date of, that endorsement and affix his signature to and date each other sheet of the documents, unless:
  - (a) any alteration of, or addition to, a building on the parcel has occurred since the proposals were approved by him; or
  - (c) the documents submitted to him are not in accordance with the proposals as approved by him.

**21 Endorsement lapses after 3 months**

- (1) An endorsement made under section 20 ceases to have effect:
  - (a) on the expiry of the period of 3 months after the date on which it was made, unless the units plan is lodged with the Registrar-General under the *Real Property (Unit Titles) Act* within that period; or
  - (b) if the units plan is so lodged within that period and is subsequently withdrawn under section 20 of that Act – when the endorsement is made by the Registrar-General under that section.
- (2) If an endorsement so ceases to have effect, the proprietor of the parcel may again submit the documents to the Surveyor-General for endorsement under section 20, whereupon that section and this section apply as if the previous endorsement had not been made.

**Part IIIA Subdivision and consolidation, &c., of units and common property****21A Unanimous consent required**

Nothing in this Part shall be taken to permit a subdivision, consolidation, conversion, alteration or change referred to in this Part:

- (a) in relation to a building, a unit or common property in a condominium development – before the units plan relating to the final stage of the condominium development has been registered; or
- (b) in any case:
  - (i) except in pursuance of a unanimous resolution at a general meeting of the corporation called for the purpose of approving that subdivision, consolidation, conversion, alteration or change; and
  - (ii) unless each person whose consent is required for the subdivision, consolidation, conversion, alteration or change under section 9DA of the *Real Property (Unit Titles) Act* has given the consent.

**21B Subdivision of units and common property**

- (1) Units or common property, or units and common property, may be subdivided by the registration of a plan as a units plan of subdivision.
- (2) A plan shall not be registered as a units plan of subdivision unless:
  - (a) it consists of a floor plan and location plan;
  - (b) that floor plan and location plan are accompanied by a certificate given by a licensed surveyor certifying that every:
    - (i) wall, the inner surface or any part of which corresponds substantially with a line shown on the floor plan relating to the proposed subdivision as a boundary of a proposed unit, exists;
    - (ii) floor or ceiling, the upper or under surface or any part of which forms a boundary of a proposed unit, exists;
    - (iii) wall, floor, ceiling or structural cubic space, by reference to which a boundary of a proposed unit is to be ascertained, exists; and
    - (iv) unit illustrated by that floor plan and location plan is wholly within the perimeter of a parcel,but such a certificate shall not certify as to the matters referred to in subparagraph (i), (ii) or (iii) in respect of a wall, floor, ceiling or structural cubic space if the inner, upper or under surface or any part of that wall, floor or ceiling was, immediately before the subdivision, a boundary of a unit the subject of the proposed subdivision or if the boundary of any such unit was, immediately before the subdivision, ascertained by reference to a wall, floor, ceiling or structural cubic space; and
  - (c) it is accompanied by:
    - (i) in the case of a units plan of subdivision relating in whole or in part to an existing building – a building certificate in relation to the building;
    - (ii) in the case of a units plan of subdivision in relation to a proposed building – certification in writing by a person approved by the Surveyor-General that the use of the land as proposed will be in accordance with the development provisions, and any interim development

control orders, under the *Planning Act*, affecting that land; and

- (iii) in the case of a units plan of subdivision relating to a proposed subdivision of an existing building and a proposed building – a certificate referred to in subparagraph (i) and the certification referred to in subparagraph (ii).

- (3) Sections 22 to 25 inclusive with the necessary changes apply to and in relation to the registration, as a units plan of subdivision, of a plan illustrating a proposed subdivision referred to in section 4(6) in the same way as they apply to and in relation to the registration of a plan as a units plan.

- (4) In subsection (2)(c)(i):

***building certificate*** means:

- (a) a certificate issued under section 40 of the repealed Act; or
- (b) an occupancy permit.

***occupancy permit*** has the same meaning as in the *Building Act*.

***repealed Act*** has the same meaning as in the *Building Act*.

## **21C Consolidation of units**

Two or more units held by the same registered proprietor may be consolidated into one unit by the registration of a plan as a units plan of consolidation.

## **21D Unit entitlement of units in subdivisions, plan of consolidation or notice of conversion**

A plan illustrating a proposed subdivision referred to in section 4(6), a proposed consolidation under section 21C, a change to land under section 21FA or a proposed conversion under section 21E shall not be registered as a units plan of subdivision or a units plan of consolidation or a notice of change to land or a notice of conversion unless it is accompanied by:

- (a) a schedule certified by a valuer specifying the proposed unit entitlement for each unit to be comprised in the parcel after the proposed subdivision, consolidation, change or conversion and the proposed aggregate unit entitlement for all the units; and

- (b) a certificate under the seal of the corporation concerned certifying that it has, by special resolution, agreed to each proposed unit entitlement and the proposed aggregate unit entitlement shown in the schedule referred to in paragraph (a).

## **21E Conversion of units into common property**

- (1) Subject to subsection (2), one or more units may be converted into common property by the registration, as a notice of conversion, of a notice in a form approved by the Registrar-General, being a notice executed by the proprietor or proprietors of that unit or those units and by the body corporate.
  - (2) A notice referred to in subsection (1) shall not be registered as a notice of conversion unless:
    - (a) every mortgage, lien, charge, current lease, caveat or writ recorded in the land register in respect of each unit to which the notice relates has, in so far as it affects any such unit, been discharged or surrendered, or withdrawn or otherwise disposed of; and
    - (b) the Registrar-General is satisfied that written notice of the intended conversion was given:
      - (i) in the case of a parcel within a council area – to the council; and
      - (ii) in the case of a parcel within an area to which the *Darwin Rates Act* applies – to the Minister responsible for the administration of that Act,
- not later than 3 months before the registration of the notice of conversion.

## **21F Alteration of building affecting units plan**

- (1) Where a building is altered by:
  - (a) the demolition of a wall, floor, ceiling or structural cubic space, and a boundary of a unit was, immediately before the alteration, the inner surface or a part of that wall, the upper surface or a part of that floor or the under surface or a part of that ceiling or was defined in terms of or by reference to that wall, floor, ceiling or structural cubic space; or
  - (b) the construction of a wall, floor or ceiling so that a boundary of a unit coincides with the inner surface or a part of that wall, the upper surface or a part of that floor or the under surface or a part of that ceiling,



the proprietor of that unit shall, within 28 days after a building certificate is issued in respect of the demolition or construction, lodge with the Registrar-General for registration as a building alteration plan a plan which:

- (c) defines by lines the base of each vertical boundary of that unit after the alteration of the building; and
- (d) is accompanied by a certificate given by a licensed surveyor certifying that:
  - (i) the wall, floor, ceiling or structural cubic space has been demolished or constructed, as the case may be; and
  - (ii) every wall, floor or ceiling referred to in paragraph (b) is wholly within the perimeter of the parcel.

Penalty: 100 penalty units.

- (2) In subsection (1):

***building certificate*** means:

- (a) a certificate issued under section 40 of the repealed Act; or
- (b) an occupancy permit.

***occupancy permit*** has the same meaning as in the *Building Act*.

***repealed Act*** has the same meaning as in the *Building Act*.

## **21FA Changing parcel that has been subdivided**

- (1) Subject to section 21A, a person (including a body corporate) may apply to the Registrar-General to change land comprised in a parcel by adding land to, or removing land from, the parcel.
- (2) An application under subsection (1) is to be in the prescribed form and contain the prescribed information (including information concerning unit entitlements and land descriptions).
- (3) If:
  - (a) the land is in a condominium development or estate development; and
  - (b) the development of the land has not been completed in accordance with the disclosure statement relating to the land,

the Registrar-General must not deal with the application unless the Surveyor-General has under section 26J or 26W (as applicable) approved a variation of the disclosure statement.

- (4) The Regulations may provide for the consequences of changing land in the common property in a unit and of changing land for the purposes of creating a new unit.
- (5) In this section, *parcel* includes the whole of land comprised in a subdivision under this Act.

### **21G Certificates of title to be lodged with certain documents**

The Registrar-General may refuse to register:

- (a) a plan for registration as a units plan of subdivision or a units plan of consolidation;
- (ba) a document by which land will be added to or subtracted from a parcel of land;
- (b) a notice for registration as a notice of conversion; or
- (c) a plan for registration as a building alteration plan,

unless it is accompanied by the certificate as to title comprising the common property.

## **Part IV Effect of registration of units plans**

### **22 Subdivision of parcel by registration**

On and after the registration of the units plan, the parcel is subdivided in the manner specified in the diagrams in the units plan and the boundaries of the units and of the common property shall be ascertained in accordance with those diagrams.

### **23 Title to units and common property**

- (1) On the registration of the units plan, other than a units plan relating to a completed stage or completed stages of a condominium development:
  - (a) the person who was the proprietor of the parcel becomes possessed of an estate in fee simple in each unit; and
  - (b) the corporation becomes possessed of an estate in fee simple in the common property.

- (1A) On the registration of the units plan relating to a completed stage or completed stages of a condominium development or estate development:
- (a) the person who was, immediately before that registration, the proprietor of that part of the parcel comprised in the completed stage or completed stages becomes possessed of an estate in fee simple in each unit, other than a unit which was, immediately before that registration, held for an estate in fee simple by another person;
  - (b) a person, if any, who was the proprietor of a unit in the condominium development or estate development immediately before that registration continues to be possessed of an estate in fee simple in that unit subject to the same mortgages and easements to which it was then subject or which were then appurtenant to it;
  - (c) the corporation becomes possessed of an estate in fee simple in the common property; and
  - (d) in the case of a condominium development, the developer, as defined in section 26A, becomes possessed of an estate in fee simple in the balance, if any, of the parcel in the condominium development.
- (1B) On the registration of a units plan of subdivision creating common property, the corporation becomes possessed of an estate or interest evidenced by the certificate as to title comprising the land the subject of the units plan of subdivision freed and discharged from all mortgages, charges, writs and caveats affecting that land immediately before the registration of that plan.
- (1C) On the registration of a notice of conversion, the corporation becomes possessed of the estate or interest in any unit converted into common property evidenced by the certificate as to title comprising the land the subject of the notice.
- (2) Subject to subsections (1A) and (1B), the estate of which a person or the corporation, as the case may be, becomes possessed under this section:
- (a) is subject to any mortgage referred to in section 8 of the *Real Property (Unit Titles) Act*; and
  - (b) is subject to, and has appurtenant to it, the easements created by section 25 of this Act, and any easement referred to in section 8 of that Act.

**24 Common property to be held in trust**

- (1) Subject to section 42B, the corporation shall hold the common property in trust for the persons who are for the time being the members of the corporation as tenants in common in undivided shares proportional to the unit entitlements of their respective units, and, subject to Part IVB, shall afford those persons opportunity for the reasonable use and enjoyment of the common property.
- (2) Subject to Part IIIA or section 42A, the estate in the common property held by the corporation is not capable, either at law or in equity, of being transferred, assigned or mortgaged.

**25 Easements created by this Act**

- (1) In this section:

**proprietor**, in relation to the common property, means the corporation.

**tenement** means a unit or the common property, as the case may be.

- (2) On and after the registration of the units plan, the proprietor of each tenement (in this section called **the dominant tenement**) shall be deemed to have over each other tenement (in this section called **the servient tenement**) such of the rights specified in subsection (3) as are necessary for the reasonable use and enjoyment of the dominant tenement.
- (3) The rights referred to in subsection (2) are:
  - (a) rights of support, shelter and protection afforded by the servient tenement at the time of the registration of the units plan;
  - (b) rights for the collection, passage and provision of water, sewerage, drainage, garbage, gas, electricity and air, and other services of whatsoever nature (including telephone, radio and television services), through or by means of pipes, wires, cables, ducts, or other reasonable means; and
  - (c) such ancillary rights as are necessary to make the rights referred to in paragraphs (a) and (b) effective, including rights of entry by the proprietor of the dominant tenement and his agents, servants and workmen at all reasonable times on the servient tenement for the purpose of:
    - (i) inspecting, maintaining or repairing the servient tenement; or

- (ii) inspecting, maintaining, repairing, replacing, renewing or restoring any pipes, wire, cable, duct or other material.
- (4) A right created by this section shall be deemed to be an easement appurtenant to the dominant tenement in relation to which it is enjoyed.
- (5) An easement created by this section subsists notwithstanding that the same person is the proprietor of both the dominant and servient tenements.
- (6) A person exercising a right under an easement created by subsection (3)(b) or (c) is liable to make good any damage done in the course of exercising that right.

## **26      No alteration of schedule of unit entitlement**

On and after the registration of the units plan, an alteration of the schedule of unit entitlement is not capable of being registered unless it is made in pursuance of Part IIIA, section 26U, 26W or 26X or an order of the Court under Part VIII.

## **Part IVA      Condominium development**

### **Division 1      Preliminary**

#### **26A      Definitions**

In this Part, unless the contrary intention appears:

***developer***, in relation to a condominium development, means the registered proprietor of an estate in fee simple in or a lease from the Crown of the parcel the subject of the condominium development, and includes a person to whom the developer's interest is transferred as referred to in section 26G, a mortgagee in possession and a purchaser from a mortgagee in possession.

***disclosure statement***, in relation to a condominium development, means a disclosure statement referred to in section 26B(3), and includes such a statement as varied under this Part.

#### **26AA      Application of Part**

Nothing in this Act prevents a building lot being the subject of an application under section 26B.

## **Division 2            Application for approval of condominium development**

### **26B            Application for approval**

- (1) Subject to subsection (2), the registered proprietor of an estate in fee simple in or a lease from the Crown of land may, in respect of that land, apply to the Surveyor-General for the approval of a proposal for the subdivision under this Act of the land and its development in stages as a condominium development.
- (2) An application under subsection (1) shall not be made except in respect of a proposal involving the creation of not less than 24 units.
- (3) An application under subsection (1) shall be accompanied by:
  - (a) a disclosure statement in duplicate; and
  - (b) a development permit issued under section 54 of the *Planning Act* indicating:
    - (i) the consent of the relevant consent authority under that Act to the development of that land in accordance with the condominium development proposal; and
    - (ii) that the determination to which it relates is conditional on the applicant's compliance with the terms of the disclosure statement.

### **26C            Contents of disclosure statement**

- (1) A disclosure statement shall, on its first page, have printed the prescribed warning, in such manner as is prescribed, and no other information other than the title of the condominium development.
- (2) In addition to the warning referred to in subsection (1), a disclosure statement shall consist of:
  - (a) the documents required under section 11 to be included in an application under section 10(1) as if the disclosure statement were an application under Part III for the approval of the condominium development as a units plan;
  - (b) a description of the condominium development, and each proposed stage of the development, signed by or on behalf of the proposed developer;

- (c) a location plan for each proposed stage of the condominium development and indicating construction zones, access zones and common property;
- (d) a description of what use can be made of access zones and construction zones referred to in paragraph (c);
- (e) a schedule of materials and finishes for all proposed stages of the condominium development;
- (f) a schedule of units and of unit entitlement certified by a valuer on the completion of the condominium development and at the completion of each proposed stage of the condominium development;
- (g) a schedule of commencement and completion dates for each proposed stage of the condominium development;
- (h) a schedule of working hours in relation to the construction and development during the second and each subsequent proposed stage of the condominium development; and
- (j) such other documents, if any, as are prescribed.

#### **26D Security for proposal**

- (1) In approving a condominium development proposal, the Surveyor-General must:
  - (a) consider whether security is required for the proposal; and
  - (b) if the Surveyor-General considers security is required for the proposal – seek the Minister's approval for the requirement.
- (2) The purpose of the security is to provide for any damages that may be payable to a claimant if there is a failure of the developer:
  - (a) to comply with this Act; or
  - (b) to complete the development or a stage of it in accordance with the disclosure statement.
- (3) The Minister may:
  - (a) give the approval; and
  - (b) specify in the approval the following requirements:
    - (i) the form and amount of the security;

- (ii) how and by whom the security must be given and maintained.
- (4) If the Minister gives the approval, the Surveyor-General must, when approving the proposal:
  - (a) specify the requirements mentioned in subsection (3)(b) as conditions for the approval of the proposal; and
  - (b) specify that the approval of the proposal is subject to the compliance of the conditions.
- (5) In this section:

***claimant*** means:

  - (a) a proprietor of a unit in the development; or
  - (b) a person who has entered into a contract with the developer for the purchase of a proposed unit in the development.

#### **26E Lodgement of disclosure statement for registration**

- (1) As soon as practicable after he receives a notice under section 18 in respect of a condominium development proposal, the proprietor of the parcel shall lodge with the Registrar-General a copy of the disclosure statement, certified by the Surveyor-General as being a true copy.
- (2) An approval under section 15 in respect of a condominium development proposal has no force or effect until a copy of the disclosure statement has been registered.
- (3) In this section ***condominium development proposal*** includes a variation, in pursuance of section 26J, of such a proposal and ***disclosure statement***, in relation to such a variation, includes a new proposal referred to in section 26J(2)(a).

#### **26F Final approval where stages completed**

- (1) Subject to subsection (2), sections 19, 20 and 21, each with the necessary changes, apply to and in relation to each stage of a condominium development approved under section 15 as if each stage were the subject of a conditional approval.
- (2) In the application of sections 20 and 21 to and in relation to the second or subsequent stage of a condominium development, the documents referred to in section 20 shall not include those relating to a previously completed stage of the condominium development.



### **Division 3            Failure of development and variation of disclosure statement**

#### **26G            Transfer of developer's interest**

- (1) This section applies if:
  - (a) a units plan for a completed stage of a condominium development is registered; and
  - (b) the developer proposes to transfer all of the developer's interest in the development to another person (the ***transferee***).
- (2) The developer must not do so unless:
  - (a) the developer applies to the Minister in the approved form for the Minister's approval of the transfer; and
  - (b) the Minister approves the transfer in writing.
- (3) The Minister must not approve the transfer unless:
  - (a) if an application has been made under section 26J for a variation of the disclosure statement for the development to take effect after the transfer – the variation is approved by the Surveyor-General; and
  - (b) if security is required for the variation – the security has been given and is maintained as so required.
- (4) The developer must:
  - (a) before applying for the approval of the transfer, give a written notice of the proposed transfer to each corporation arising from a completed stage of the development; and
  - (b) give a written notice of the Minister's decision on the application to each such corporation after being notified of the decision.
- (5) In this section:

***approved form*** means a form approved by the Minister.

***the developer's interest in the development*** does not include the developer's interest as the proprietor of a unit in the development.

## **26H Damage for failure, of developer**

- (1) Where a developer fails to comply with a disclosure statement or complete a condominium development in accordance with the disclosure statement, the proprietor of a unit, or a person who has contracted with the developer to purchase a proposed unit, in the condominium development may, in addition to any other right at law or in equity he may have, sue for and recover such damages from the developer as the Court thinks fit.
- (2) Without limiting the generality of subsection (1), the proprietor of a unit, or a person who has contracted with the developer to purchase a proposed unit, in the condominium development shall be entitled to recover any expected loss of capital appreciation of his unit or proposed unit arising out of the failure, calculated to the date on which the condominium development was to be completed in accordance with the disclosure statement.
- (3) The proprietor's consent to a variation of the statement does not prevent the proprietor from acting under this section in relation to the statement as in force before the variation.
- (4) This section has effect subject to any agreement between the proprietor and the developer.

## **26J Variation of disclosure statement**

- (1) At any time after the completion of the first stage of a condominium development, the developer may apply to the Surveyor-General for a variation of the Surveyor-General's approval of the subdivision proposed in the disclosure statement.
- (1A) A transferee mentioned in section 26G may apply to the Surveyor-General for a variation of the disclosure statement under subsection (1) as if the transferee were the developer.
- (2) An application under subsection (1) shall be accompanied by:
  - (a) a disclosure statement in the form required under section 26C indicating the manner it is proposed that the condominium development proposal be varied and the new proposal;
  - (b) a determination under section 54 of the *Planning Act* indicating the consent of the relevant consent authority under that Act to the proposal as varied; and
  - (c) the consent in writing, in such form as the Surveyor-General approves, of each proprietor of a unit in the condominium development.

- (3) Subject to this section, an application under subsection (1) shall be dealt with by the Surveyor-General in the same manner as an application for the approval of the subdivision proposed in the original disclosure statement.
- (4) A variation approved because of subsection (1A) may take effect only after the transfer mentioned in section 26G to which the variation relates has occurred.
- (5) In subsection (1):

***Surveyor-General's approval***, of the subdivision proposed in the disclosure statement, includes the Minister's approval of such a subdivision given before the commencement of the amendment of this section by the *Land Title and Related Legislation Amendment Act 2008*.

#### **Division 4            Miscellaneous**

##### **26K            Disclosure statement deemed part of contract of sale of unit**

- (1) Each contract entered into by a developer for the sale of a unit, proposed unit or other interest in a condominium development, other than an interest referred to in section 26G(1)(a), shall, in addition to any other condition to which it is expressed to be subject, be deemed to be subject to the condition that the developer will construct and complete the condominium development in accordance with the disclosure statement, and each successor in title to a unit or interest so sold shall be deemed to be the original purchaser from or contractor with the developer and may enforce the contract accordingly.
- (2) A person is incapable of contracting out of the effect of subsection (1).

##### **26M            Rights of developer in respect of access and development zones**

A developer shall have against the corporation of, and the proprietor of each unit in the completed stage or stages of, a condominium development such rights in relation to the construction and access zones specified in the disclosure statement in respect of each stage of the proposed condominium development as is provided in the disclosure statement.

## **Part IVB Estate development**

### **Division 1 Preliminary**

#### **26N Definitions**

- (1) In this Part, unless the contrary appears:

***approved*** means approved by the Minister.

***common property*** means the common property of the estate management corporation.

***developer***, in relation to an estate development, means the registered proprietor of an estate in fee simple in, or a lease from the Crown of, the parcel the subject of the estate development and includes a mortgagee in possession and a purchaser from a mortgagee in possession.

***disclosure statement*** means a disclosure statement referred to in section 26Q(3), and includes such a statement as varied under this Part.

***lot*** means a lot into which the Estate is or is to be subdivided in pursuance of this Part.

***Estate*** means the parcel subdivided or to be subdivided in pursuance of this Part.

- (2) In this Part a reference to the proprietor of a lot includes a reference to the proprietors of units and common property into which a lot is further subdivided under this Act and a reference to a lot includes a reference to such a unit and common property.

#### **26P Application of Act to estate developments**

This Act applies to and in relation to an estate development as if a reference in this Act to a unit were a reference to a lot and notwithstanding that there is no building on, or a particular building proposed to be constructed on, the lot.

## **Division 2 Subdivision for estate development**

### **26Q Application for approval**

- (1) Subject to subsection (2), the registered proprietor of an estate in fee simple in or a lease from the Crown of land may, in respect of that land, apply to the Surveyor-General for the approval of a proposal for the subdivision under this Act of the land and its development as an estate development.
- (2) An application under subsection (1) shall not be made except in respect of a proposal involving the creation of not less than 2 lots.
- (3) An application under subsection (1) shall be accompanied by:
  - (a) a disclosure statement in duplicate;
  - (b) a fee of \$500 or such other amount as is prescribed; and
  - (c) a development permit or exceptional development permit issued under the *Planning Act* indicating:
    - (i) the consent of the relevant consent authority under that Act to the subdivision of the land in accordance with the estate development proposal; and
    - (ii) that the determination to which it relates is conditional on the applicant's compliance with the terms of the disclosure statement.

### **26R Contents of disclosure statement**

- (1) A disclosure statement shall, on its first page, have typed or printed in block capital letters of a size not less than 8 points and so as to be clearly legible, the warning specified in Schedule 2 (or such other warning in addition to or in substitution for that warning as is prescribed), and no other information other than the title of the estate development.
- (2) In addition to the warning referred to in subsection (1), a disclosure statement shall consist of:
  - (a) the documents required by section 11 to be included in an application under section 10(1) as if the disclosure statement were an application under Part III for the approval of the estate development as a units plan;

- (b) a description of the proposed development (and each stage of the proposed development where it is proposed to be developed in stages) signed by or on behalf of the proposed developer;
- (c) a lot plan for the estate development prepared by a surveyor licensed under the *Licensed Surveyors Act* showing each proposed stage of the development, and indicating the precalculated dimensions and areas of the lots, construction zones, access zones and common property;
- (d) a description of what use can be made of access zones and construction zones referred to in paragraph (c);
- (e) a schedule of lots on the completion of the estate development and, as the case may be, its various proposed stages and indicating the zoning under the *Planning Act* for each lot;
- (f) a schedule of commencement and completion dates for each proposed stage of the estate development;
- (g) a statement of any special rights or privileges in relation to the common property proposed to adhere to each lot; and
- (h) such other documents, if any, as are prescribed.

## **26S Security for proposal**

- (1) In approving an estate development proposal, the Surveyor-General must:
  - (a) consider whether security is required for the proposal; and
  - (b) if the Surveyor-General considers security is required for the proposal – seek the Minister's approval for the requirement.
- (2) The purpose of the security is to provide for any damages that may be payable to a claimant if there is a failure of the developer:
  - (a) to comply with this Act; or
  - (b) to complete the development.
- (3) The Minister may:
  - (a) give the approval; and
  - (b) specify in the approval the following requirements:
    - (i) the form and amount of the security;

- (ii) how and by whom the security must be given and maintained.
- (4) If the Minister gives the approval, the Surveyor-General must, when approving the proposal:
  - (a) specify the requirements mentioned in subsection (3)(b) as conditions for the approval of the proposal; and
  - (b) specify that the approval of the proposal is subject to the compliance of the conditions.
- (5) In this section:  
***claimant*** means:
  - (a) a proprietor of a lot in the development; or
  - (b) a person who has entered into a contract with the developer for the purchase of a proposed lot in the development.

#### **26T Lodgement of disclosure statement for registration**

- (1) As soon as practicable after he receives a notice under section 18 in respect of an estate development proposal, the proprietor of the Estate shall lodge with the Registrar-General a copy of the disclosure statement, certified by the Surveyor-General as being a true copy.
- (2) An approval under section 15 in respect of an estate development proposal has no force or effect until a copy of the disclosure statement has been registered.
- (3) In this section ***estate development proposal*** includes a variation, in pursuance of section 26W of such a proposal and ***disclosure statement***, in relation to such a variation, includes a new proposal referred to in section 26W(2)(a).

### **Division 3 Failure of development and variation of disclosure statement**

#### **26U Transfer of developer's interest**

- (1) This section applies if:
  - (a) a units plan for a completed stage of an estate development is registered; and

- (b) the developer proposes to transfer all or part of the developer's interest in the development to another person (the ***transferee***).
- (2) The developer must not do so unless:
    - (a) the developer applies to the Minister in the approved form for the Minister's approval of the transfer; and
    - (b) the Minister approves the transfer in writing.
  - (3) The Minister must not approve the transfer unless:
    - (a) if an application has been made under section 26W for a variation of the disclosure statement for the development to take effect after the transfer – the variation is approved by the Surveyor-General; and
    - (b) if security is required for the variation – the security has been given and is maintained as so required.
  - (4) The developer must:
    - (a) before applying for the approval of the transfer, give a written notice of the proposed transfer to each corporation arising from a completed stage of the development; and
    - (b) give a written notice of the Minister's decision on the application to each such corporation after being notified of the decision.
  - (5) In this section:

***approved form*** means a form approved by the Minister.

***the developer's interest in the development*** does not include the developer's interest as the proprietor of:

- (a) a lot in the development; or
- (b) a unit into which a lot in the development is further subdivided under this Act.

## **26V Damage for failure of developer**

- (1) Where a developer fails to comply with a disclosure statement or complete an estate development in accordance with the disclosure statement, the proprietor of a lot, or a person who has contracted with the developer to purchase a proposed lot in the estate development may, in addition to any other right at law or in equity



he may have, sue for and recover such damages from the developer as the Court thinks fit.

- (2) Without limiting the generality of subsection (1), the proprietor of a lot, or a person who has contracted with the developer to purchase a proposed lot, in the estate development shall be entitled to recover any expected loss of capital appreciation of his lot or proposed lot arising out of the failure, calculated to the date on which the estate development was to be completed in accordance with the disclosure statement.
- (3) The proprietor's consent to a variation of the statement does not prevent the proprietor from acting under this section in relation to the statement as in force before the variation.
- (4) This section has effect subject to any agreement between the proprietor and the developer.

#### **26W Variation of disclosure statement**

- (1) At any time the developer may apply to the Surveyor-General for a variation of the Surveyor-General's approval of the subdivision proposed in the disclosure statement.
- (1A) A transferee mentioned in section 26U may apply to the Surveyor-General for a variation of the disclosure statement under subsection (1) as if the transferee were the developer.
- (2) An application under subsection (1) shall be accompanied by:
  - (a) a disclosure statement in the form required under section 26R indicating the manner it is proposed that the estate development proposal be varied and the new proposal;
  - (b) a development permit under section 54 of the *Planning Act* indicating the consent of the relevant consent authority under that Act to the proposal as varied;
  - (c) where the variation, if approved, will affect common property – the consent in writing, in an approved form, of each proprietor of a lot in the estate development;
  - (d) a fee of \$300 or such other amount as is prescribed; and
  - (e) a revised schedule of lot entitlements for the whole estate development prepared by a valuer,

and the developer shall serve a copy of the application, and the documents required by this subsection to accompany it, on the estate management corporation.

- (3) If the developer applies to a proprietor of a lot for consent to a proposed variation and the consent is refused or is not, within 28 days after the application, granted, the developer may apply to the Court for an order consenting, in the name of the proprietor, to the proposed variation and the Court has jurisdiction to hear and determine the application and make such an order.
- (4) Subject to this section, an application under subsection (1) shall be dealt with by the Surveyor-General in the same manner as an application for the approval of the subdivision proposed in the original disclosure statement.
- (5) Where the Surveyor-General approves a variation under this section or the Court consents under subsection (3) to the variation, the developer shall lodge with the Registrar-General for registration the instrument of approval or order of the Court and the revised schedule of lot entitlements referred to in subsection (2)(e).
- (6) A variation approved because of subsection (1A) may take effect only after the transfer mentioned in section 26U to which the variation relates has occurred.
- (7) In subsection (1):

***Surveyor-General's approval***, of the subdivision proposed in the disclosure statement, includes the Minister's approval of such a subdivision given before the commencement of the amendment of this section by the *Land Title and Related Legislation Amendment Act 2008*.

## **Division 4 Miscellaneous**

### **26X Reassessment of unit entitlements after completion of estate development**

- (1) At any time in the third to sixth year after the completion of an estate development the estate management corporation may apply to the Surveyor-General, in an approved form, for the Surveyor-General's approval to a revised schedule of lot entitlements for the whole estate development prepared by a valuer and shall serve a copy of the application and revised schedule on the owner of each lot.
- (2) Where the Surveyor-General approves a revised schedule of lot entitlements lodged under subsection (1), the estate management corporation shall lodge with the Registrar-General for registration the instrument of approval and the revised schedule.

**26Y Further subdivision**

- (1) Subject to the *Planning Act*, a lot may be further subdivided under this Act into units and common property.
- (2) Where a lot is further subdivided under this Act into units, the Registrar-General shall note on the certificate as to title of each unit into which it is subdivided that the lot comprising all the units and common property in that further subdivision has the relevant lot entitlement for the purposes of this Act.
- (3) The Regulations may prescribe how the relevant entitlement of each unit into which a lot is further subdivided shall be determined and an entitlement so determined may be expressed as a number that is not a whole number.

**26Z Restrictive covenants**

For the purposes of imposing a restrictive covenant on the use of a lot in accordance with the disclosure statement, the common property shall be deemed to be the dominant tenement for the benefit of which the covenant is imposed (notwithstanding that no part of the common property may be contiguous to the lot), and the burden of the covenant shall run with the land comprised in the lot.

**26ZA Disclosure statement deemed part of contract of sale of lot**

- (1) Each contract entered into by a developer for the sale of a lot, proposed lot or other interest in an estate development, other than an interest referred to in section 26U(1)(a), shall, in addition to any other condition to which it is expressed to be subject, be deemed to be subject to the condition that the developer will construct and complete the estate development in accordance with the disclosure statement, and each successor in title to a unit or interest so sold shall be deemed to be the original purchaser from or contractor with the developer and may enforce the contract accordingly.
- (2) A person is incapable of contracting out of the effect of subsection (1).

**26ZB Rights of developer in respect of access and development zones**

A developer shall have against the estate management corporation of, and the proprietor of each lot in the completed stage or stages of, an estate development such rights in relation to the construction and access zones specified in the disclosure statement in respect of each stage of the proposed estate development as is provided in the disclosure statement.

## **26ZC Application of Part V**

The Regulations may vary the application of Part V (other than Division 1 of that Part) and Schedule 1 to and in relation to an estate development corporation and the management of the affairs of the estate development and, where they do so, that Part or Schedule 1, as so varied, applies accordingly.

## **26ZD By-laws relating to estate development**

- (1) An estate management corporation may, by special resolution, in respect of its estate development, make By-laws, not inconsistent with this or any other law of the Territory, relating to:
  - (a) the management, use and maintenance of the estate development;
  - (aa) the health and safety of persons;
  - (b) the control of vehicles in areas that are not part of public roadways;
  - (c) the control of vessels;
  - (d) the control of wharf's and berths;
  - (e) the control of polluting substances and pollution control and clean-up;
  - (f) the imposition and collection of dues and other fees and charges incidental to the management, use and maintenance of the common property;
  - (g) noise and other nuisance control;
  - (h) the enforcement of the By-laws and prosecuting persons for offences against the By-laws;
  - (j) the duties of owners and occupiers of lots; and
  - (k) such other matters as are necessary or convenient to be provided for by by-laws.
- (2) The By-laws may prescribe penalties, not exceeding 100 penalty units, for a contravention of, or failure to comply with, the By-laws and, in addition, may prescribe a penalty, not exceeding one penalty unit, for each day during which the offence continues.

- (3) A pecuniary penalty recovered on prosecution for an offence against the By-laws is payable to the estate management corporation and may be recovered by it as a debt due to it.
- (3A) Nothing in the By-laws limits or otherwise affects the operation of any other law of the Territory.
- (4) Section 57 of the *Interpretation Act* does not apply to or in relation to By-laws made under subsection (1).

**26ZE      Transitional**

- (1) At any time before an estate management corporation first meets after its incorporation the Minister may make a by-law on any matter which, under section 26ZD, the estate management corporation could make a by-law.
- (2) A by-law made under subsection (1) may be revoked or amended by a by-law under section 26ZD by the estate management corporation.

**Part IVC      Building development**

**Division 1      Preliminary**

**26ZF      Definitions**

- (1) In this Part, unless the contrary intention appears:

***common property*** means the common property of the building management corporation.

***developer***, in relation to a building development, means a person who is or was the registered proprietor of an estate in fee simple in, or a lease from the Crown of, all of the land to which a Building Development Parcel relates.

***disclosure statement*** means a disclosure statement referred to in section 26Zl(3) and includes a disclosure statement as varied under this Part.

- (2) In this Part, unless the contrary intention appears, a reference to the proprietor of a building lot includes a reference to the proprietors of units and common property into which a building lot is further subdivided under this Act and a reference to a building lot includes a reference to those units and common property.

**26ZG      Boundaries of building lots**

- (1) The boundaries of a building lot may be determined by reference to one or both, or a combination, of the following:
  - (a) walls, ceilings and floors of any building on the Building Development Parcel;
  - (b) land in the Building Development Parcel, whether or not the land is contiguous to any building.
- (2) If the boundaries of a building lot are determined by reference to land, the vertical dimension is to be taken to be limited to the extent of any projections or encroachments (above or below the surface of the land) that are part of some other building lot or the common property.
- (3) The boundaries of a building lot may be described by reference to the inside or outside of floors, walls or ceilings.

**26ZH      Application of Part**

- (1) Nothing in this Act prevents a lot being the subject of an application under this Part.
- (2) In subsection (1), **lot** has the same meaning as in section 26N.

**Division 2      Subdivision for building development**

**26ZI      Lodging of building development plan**

- (1) Subject to subsection (2), the registered proprietor of an estate in fee simple in or a lease from the Crown of land may lodge with the Registrar-General a building development plan of subdivision.
- (2) A building development plan of subdivision must involve the creation of not less than 2 building lots and common property.
- (3) A building development plan of subdivision must comply with the prescribed requirements and must be accompanied by:
  - (a) a disclosure statement (in duplicate) in the prescribed form;
  - (b) the prescribed fee;

- (c) a development permit or exceptional development permit issued under the *Planning Act* indicating:
  - (i) the consent of the relevant consent authority under that Act to the subdivision of the land in accordance with the building development proposal; and
  - (ii) that the determination to which it relates is conditional on the applicant's compliance with the terms of the disclosure statement;
- (d) a schedule of building lot entitlements prepared in accordance with the Regulations; and
- (e) any other information that may be prescribed to accompany the application.

#### **26ZJ Lodging of security deposit**

- (1) The Minister may, on advice from the Registrar-General, require a developer to lodge with the Minister a security.
- (2) The Registrar-General must consider each application under section 26ZI and determine whether to advise the Minister to exercise his or her powers under subsection (1).
- (3) The security:
  - (a) is to be in the form, for the amount, and from the person, that the Minister thinks fit; and
  - (b) is to be maintained as the Minister directs.
- (4) The security may be used to pay damages to the proprietor of a building lot or a person who has contracted or contracts with the developer for the purchase of a proposed building lot in the building development in the event of the developer's failure to comply with this Act or his or her failure to complete the building development in accordance with the disclosure statement.

#### **26ZK Disclosure statement**

- (1) A disclosure statement is to contain mechanisms for resolving disputes and for obtaining agreement to contentious issues.
- (2) A provision of a disclosure statement that imposes an obligation that is unjust or oppressive on a prospective owner of a building lot or unit is not binding on, and cannot be enforced against, the prospective owner.

- (3) A disclosure statement is to contain:
  - (a) the prescribed provisions; and
  - (b) provisions that relate to matters that are prescribed.
- (4) A disclosure statement is to specify a procedure by which the disclosure statement may, subject to this section, be varied.
- (5) A disclosure statement is to specify that there may be Regulations under this Act that apply to a variation of the statement.
- (6) The Regulations may establish a procedure by which a disclosure statement may be varied other than under section 26ZM.
- (7) The Regulations may provide that a procedure in the Regulations for the variation of a disclosure statement is to apply:
  - (a) in all cases, other than a variation under section 26ZM, whether or not the disclosure statement establishes a procedure for the variation of the disclosure statement; or
  - (b) if a disclosure statement does not establish a procedure for the variation of the disclosure statement and the variation is not a variation under section 26ZM.
- (8) A variation of a disclosure statement under this section:
  - (a) is of no effect unless it is lodged with the Registrar-General; and
  - (b) is not to be registered by the Registrar-General unless the variation complies with the prescribed requirements, if any.

## **26ZL      Registration of building development plan**

- (1) Except as provided in this section, the Registrar-General must register a building development plan lodged under section 26ZI.
- (2) If the parcel of land is crown leasehold, the Registrar-General must not register the building development plan unless it is accompanied by the written consent of the Minister administering the *Crown Lands Act* to the plan and any other documentation that is necessary in order for the leasehold interest to be converted into an estate in fee simple.
- (3) The Registrar-General must not register a building development plan under subsection (1) unless it conforms to applicable development provisions, or an applicable interim development control order, under the *Planning Act*.



- (4) The Registrar-General must not register a building development plan under subsection (1) unless all documents and fees required under section 26ZI have been lodged.
- (5) The Registrar-General must not register a building development plan under subsection (1) unless the security, if any, required under section 26ZJ has been lodged.

### **Division 3 Failure of development and variation of disclosure statement**

#### **26ZM Failure of developer to complete building development**

- (1) A disclosure statement may be varied by:
  - (a) an agreement involving, as parties, the developer, the lot owners, persons who have contracted to buy a lot and persons with registered interests in the land; or
  - (b) the Minister acting in accordance with this Division.
- (2) If a developer fails, or expects or is expected to be unable, to complete a building development in accordance with the disclosure statement and an agreement under subsection (1)(a) cannot be reached, anyone who may be a party to that agreement may apply to the Minister for the disclosure statement to be varied.
- (3) The Minister may only allow the application:
  - (a) after consulting with those persons who will be affected by the variation; and
  - (b) if satisfied that it is not possible by agreement or legal process for the building development to be completed in an orderly way; and
  - (c) after considering advice from an arbitrator appointed under section 26ZN.
- (4) A variation of a disclosure statement under this section:
  - (a) is of no effect unless it is lodged with the Registrar-General; and
  - (b) is not to be registered by the Registrar-General unless the variation complies with the prescribed requirements, if any.

**26ZN Minister's involvement in disputes about disclosure statements**

- (1) In the event of a dispute about a variation to a disclosure statement under section 26ZM or about any other matter involving the disclosure statement, or the rights and obligations of the parties, the Minister may, if permitted to do so by the disclosure statement, appoint, on the application of one or more of the parties, an arbitrator.
- (2) The Minister may only appoint an arbitrator under subsection (1) if the disclosure statement contains an express statement permitting the Minister to appoint an arbitrator.
- (3) An arbitrator appointed under subsection (1) may exercise the powers that are prescribed by the Regulations for resolving disputes having regard to the overall interests of the persons affected.
- (4) The Minister may, by notice in writing to the parties to a dispute, specify that the costs incurred by the Minister in exercising his or her powers under section 26ZM or this section are payable in equal shares by:
  - (a) if the developer is a party to the dispute:
    - (i) the developer; and
    - (ii) all other parties to the dispute together; or
  - (b) if the developer is not a party to the dispute – each of the parties.
- (5) The Minister and the parties to a dispute may agree about the following:
  - (a) the amount of the costs incurred by the Minister under this section or section 26ZM to be paid by the parties;
  - (b) the proportion of the costs incurred by the Minister under this section or section 26ZM to be paid by the parties.
- (6) The Minister may only enter into an agreement under subsection (5) if he or she is satisfied that the determination of the amount of the costs and the proportion of the costs to be paid by a party to the dispute is equitable, having regard to the nature of the dispute and the financial capacities of each party to the dispute.

- (7) If a notice is given under subsection (4) or an agreement is reached under subsection (5) in relation to a dispute, the costs payable by a party to the dispute are due and payable on:
  - (a) the date on which the notice is served or the agreement is made; or
  - (b) a later date specified in the notice or agreement.
- (8) The balance from time to time outstanding of an amount due and payable under subsection (7) by a developer is an overriding statutory charge, within the meaning of the *Land Title Act*, on any unit, building lot or other land, within the Building Development Parcel to which the dispute relates and of which the developer is a registered proprietor in fee simple or a registered proprietor of a lease from the Crown.
- (9) The balance from time to time outstanding of an amount due and payable under subsection (7) by a party to a dispute other than a developer is an overriding statutory charge, within the meaning of the *Land Title Act*, on any unit, building lot or other land, within the Building Development Parcel to which the dispute relates and of which the party is a registered proprietor in fee simple.

## **26ZO Damage for failure etc. of developer**

- (1) If a developer fails to comply with a disclosure statement or to complete a building development in accordance with the disclosure statement, the proprietor of a building lot, a person who has contracted with the developer to purchase a proposed building lot in the building development or the owner of a unit within the building lot may, in addition to any other right that he or she may have at law or in equity, sue for and recover damages from the developer that the Court thinks fit.
- (2) Without limiting subsection (1), the proprietor of a building lot, a person who has contracted with the developer to purchase a proposed building lot or the owner of a unit within the building lot in the building development is entitled to recover any expected loss of capital appreciation of his or her building lot, proposed building lot or unit arising out of the failure (calculated to the date on which the building development was to be completed in accordance with the disclosure statement).

## **Division 4      Effect of registration of building development plan**

### **26ZP      Subdivision of parcel by registration**

On the registration of the building development plan, the parcel is subdivided in the manner specified in the diagrams in the building development plan and the boundaries of the building lots and of the common property are to be ascertained in accordance with those diagrams.

### **26ZQ      Title to building lots and common property**

- (1) On the registration of the building development plan:
  - (a) the person who was the proprietor of the parcel becomes possessed of an estate in fee simple in each building lot; and
  - (b) the corporation becomes possessed of an estate in fee simple in the common property.
- (2) On the registration of a building development plan creating common property, the corporation becomes possessed of an estate or interest evidenced by the certificate as to title comprising the land the subject of the building development plan freed and discharged from all mortgages, charges, writs and caveats affecting the land immediately before the registration of the plan.
- (3) On the registration of a notice of conversion, the corporation becomes possessed of the estate or interest in any building lot converted into common property evidenced by the certificate as to title comprising the land the subject of the notice.
- (4) Subject to subsections (2) and (3), the estate of which a person or the corporation, as the case may be, becomes possessed under this section:
  - (a) is subject to any mortgage to which section 8 of the *Real Property (Unit Titles) Act* relates; and
  - (b) is subject to, and has appurtenant to it, the easements created by section 25 and any easement referred to in section 8 of *Real Property (Unit Titles) Act*.

### **26ZR      Common property to be held in trust**

- (1) Subject to section 42B, the corporation holds the common property in trust for the persons who are for the time being the members of the corporation as tenants in common in undivided shares proportional to the building lot entitlements of their respective building lots, and, subject to Part IVB, is to afford those persons

opportunity for the reasonable use and enjoyment of the common property.

- (2) Subject to Part IIIA and section 42B, the estate in the common property held by the corporation is not capable, either at law or in equity, of being transferred, assigned or mortgaged.

## **26ZS Easements created by this Act**

- (1) In this section:

**proprietor**, in relation to the common property, means the corporation.

**tenement** means a building lot, unit or the common property, as the case may be.

- (2) On the registration of the building development plan, the proprietor of each tenement (**the dominant tenement**) is taken to have over each other tenement (**the servient tenement**) those rights specified in subsection (3) that are necessary for the reasonable use and enjoyment of the dominant tenement.
- (3) The rights referred to in subsection (2) are:
- (a) rights of support, shelter and protection afforded by the servient tenement at the time of the registration of the building development plan;
  - (b) rights for the collection, passage and provision of water, sewerage, drainage, garbage, gas, electricity and air, and other services of whatsoever nature (including telephone, radio and television services), through or by means of pipes, wires, cables, ducts, or other reasonable means; and
  - (c) any other ancillary rights that are necessary to make the rights referred to in paragraphs (a) and (b) effective, including rights of entry by the proprietor of the dominant tenement and his or her agents, servants and workmen at all reasonable times on the servient tenement for the purpose of:
    - (i) inspecting, maintaining or repairing the servient tenement; or
    - (ii) inspecting, maintaining, repairing, replacing, renewing or restoring any pipes, wire, cable, duct or other material.
- (4) A right created by this section is to be taken to be an easement appurtenant to the dominant tenement in relation to which it is enjoyed.

- (5) An easement created by this section subsists despite that the same person is the proprietor of both the dominant and servient tenements.
- (6) A person exercising a right under an easement created by subsection (3)(b) or (c) is liable to make good any damage done in the course of exercising the right.

**26ZT      No alteration of schedule of unit entitlement**

On and after the registration of the building development plan, an alteration of the schedule of building lot unit entitlement is not capable of being registered unless it is made in pursuance of an order of the Court under Part VIII or in accordance with this Part.

**Division 5      Miscellaneous**

**26ZU      Conversion of units into building lots**

- (1) The owners of units to which a units plan relates may lodge with the Registrar-General a building development plan to convert all of the units to which the units plan relates into building lots.
- (2) An application under subsection (1) cannot be made unless the written consent of all of the owners of the units to which a units plan relates has been obtained.
- (3) Subject to subsection (4), sections 26ZI to 26ZT (inclusive) apply in respect of a building development plan lodged under subsection (1).
- (4) The Regulations may vary the application of a section referred to in subsection (3) and the section as varied applies accordingly.
- (5) On the Registrar-General registering a building development plan lodged under subsection (1):
  - (a) the body corporate for the units is taken to be a body corporate constituted under section 28; and
  - (b) the units become building lots (that may be further subdivided in accordance with section 26ZV); and
  - (c) the management rules applying to building lots apply to the exclusion of any other management rules (except that decisions made before the conversion are to be taken to have been made under the management provisions applying to the building units).

**26ZV      Further subdivision**

- (1) Subject to the *Planning Act*, a building lot may be further subdivided under this Act into units and common property.
- (2) A further subdivision of a building lot under this Act can only be in a manner that is consistent with the disclosure statement and the By-laws.
- (3) If a building lot is further subdivided under this Act into units, the Registrar-General must note on the certificate as to title of each unit into which it is subdivided that the building lot comprising all the units and common property in that further subdivision has the relevant building lot entitlement for the purposes of this Act.
- (4) The Regulations may prescribe how the relevant entitlement of each unit into which a building lot is further subdivided is to be determined and an entitlement so determined may be expressed as a number that is not a whole number.

**26ZW      Restrictive covenants**

For the purposes of imposing a restrictive covenant on the use of a building lot in accordance with the disclosure statement, the common property is to be taken to be the dominant tenement for the benefit of which the covenant is imposed (despite that no part of the common property may be contiguous to the building lot) and the burden of the covenant runs with the land comprised in the building lot.

**26ZX      Disclosure statement part of contract of sale of building lot**

- (1) Each contract entered into by a developer for the sale of a building lot, proposed building lot or other interest in a building development is, in addition to any other condition to which it is expressed to be subject, to be taken to be subject to the condition that the developer will construct and complete the building development in accordance with the disclosure statement
- (2) For the purposes of subsection (1), a person who is a successor in title to a building lot or unit or interest is to be taken to be the original purchaser from or contractor with the developer and may enforce the contract accordingly.
- (3) For the purposes of subsection (1), the registered proprietor of a unit that was formed by the subdivision of a building lot or a proposed building lot is to be taken to be an original purchaser from the developer.

- (4) A person is incapable of contracting out of the effect of subsection (1).

**26ZY      Rights of developer in respect of access and development zones**

A developer has against the building management corporation of, and the proprietor of each building lot in the completed stage or stages of, a building development the rights in relation to the construction and access zones specified in the disclosure statement in respect of each stage of the proposed building development as are provided in the disclosure statement.

**26ZZ      Application of Part V**

The Regulations may vary the application of Part V (other than Division 1) and Schedule 1 in relation to a building management corporation and the management of the affairs of the building development and the Part or Schedule, as varied, applies accordingly.

**26ZZA    By-laws relating to building development**

- (1) A building management corporation may, by special resolution, in respect of its building development, make by-laws, not inconsistent with this or any other law of the Territory, relating to:
- (a) the management, use and maintenance of the building development;
  - (aa) the health and safety of persons;
  - (b) the control of vehicles in areas that are not part of public roadways;
  - (c) the control of vessels;
  - (d) the control of wharfs and berths;
  - (e) the control of polluting substances and pollution control and clean-up;
  - (f) the imposition and collection of dues and other fees and charges incidental to the management, use and maintenance of the building development;
  - (g) noise and other nuisance control;
  - (h) the enforcement of the By-laws and prosecuting persons for offences against the By-laws;



- (i) the duties of owners and occupiers of building lots; and
  - (j) any other matters that are necessary or convenient to be provided for by by-laws.
- (2) By-laws relating to the further subdivision of a building lot under this Act cannot be inconsistent with the disclosure statement.
- (3) The By-laws may prescribe penalties, not exceeding 100 penalty units, for a contravention of, or failure to comply with, the By-laws and, in addition, may prescribe a penalty, not exceeding one penalty unit, for each day during which the offence continues.
- (4) A pecuniary penalty recovered on prosecution for an offence against the By-laws is payable to the building management corporation and may be recovered by it as a debt due to it.
- (4A) Nothing in the By-laws limits or otherwise affects the operation of any other law of the Territory.
- (5) Section 57 of the *Interpretation Act* does not apply to the By-laws.

**26ZZB    Transitional**

- (1) At any time before a building management corporation first meets after its incorporation the Minister may make a by-law on any matter that under section 26ZZA the building management corporation could make a by-law.
- (2) A by-law made under subsection (1) may be revoked or amended by a by-law under section 26ZZA by the building management corporation.

**Part V            Management corporations**

**Division 1        Constitution of corporations**

**27A            Definitions**

In this Part:

***this Part*** includes a management module.

**27            Body corporate – units plan other than building development plan**

- (1) On and after the registration of a units plan, including a units plan relating to the first completed stage of a condominium development or on the issuing under the *Real Property (Unit Titles) Act* of the first

freehold title to land in an estate development, there is constituted a body corporate under the name "The Proprietors – Units Plan No. ", the number to be included in the name being the number allotted to the units plan by the Registrar-General on its registration.

- (2) The members of the body corporate are the persons who are proprietors, for the time being, of the units including, in the case of a corporation relating to a condominium development or estate development, the units in each completed stage of the condominium development or estate development.
- (3) However, if a new body corporate (***the new corporation***) is constituted under this Act because of a subdivision of a part of the parcel to which the units plan relates:
  - (a) the new corporation must be regarded as a member of the body corporate (***the parent corporation***) constituted on the registration of the units plan; and
  - (b) the proprietors of the units resulting from the subdivision must not be regarded as members of the parent corporation.
- (4) If subsection (3) applies, a reference in this Part to a proprietor constituting the parent corporation:
  - (a) includes a reference to the new corporation; and
  - (b) does not include a reference to the proprietors mentioned in subsection (3)(b).
- (5) In this section:
  - (a) a reference to a units plan does not include a reference to a building development plan; and
  - (b) a reference to a body corporate does not include a reference to a building management corporation.

## **28 Body corporate – building development plan**

- (1) On the registration of a building development plan there is constituted a body corporate under the name "The Proprietors – Building Development Plan No. ", the number to be included in the name being the number allotted to the building development plan by the Registrar-General on its registration.
- (2) Despite subsection (1), the body corporate may call itself by another name.

- (3) That other name:
  - (a) must include the words "Building Management Corporation"; and
  - (b) must be registered with the Registrar-General.
- (4) The members of the body corporate are the persons who are proprietors, for the time being, of the building lots.
- (5) However, if a new body corporate (***the new corporation***) is constituted under this Act because of a subdivision of a part of the parcel to which the building development plan relates:
  - (a) the new corporation must be regarded as a member of the body corporate (***the parent corporation***) constituted on the registration of the building development plan; and
  - (b) the proprietors of the units resulting from the subdivision must not be regarded as members of the parent corporation.
- (6) If subsection (5) applies, a reference in this Part to a proprietor constituting the parent corporation:
  - (a) includes a reference to the new corporation; and
  - (b) does not include a reference to the proprietors mentioned in subsection (5)(b).

## **29 Body corporate may appoint representative**

- (1) A body corporate that is a proprietor of a unit may appoint a person as its representative for this Part.
- (2) The appointment must be made in accordance with the management module that applies to the corporation to which the unit plan for the unit relates.
- (3) While the appointment is in force, this Part applies to the representative as if the representative were the proprietor.

## **30 Legal status, &c., of corporation**

- (1) A corporation:
  - (a) has perpetual succession;
  - (b) shall have a common seal; and
  - (c) may sue and be sued in its corporate name.

- (2) A corporation has the powers, authorities, duties and functions conferred or imposed on it by or under this Act and, subject to this Act, has the control, management and administration of the common property.

### **30A        Seal of corporation**

- (1) The common seal of a corporation shall be kept:
- (a) where the corporation is constituted by one proprietor – by that person; or
  - (b) where the corporation is constituted by 2 or more proprietors – by such proprietor or committee-man as the corporation determines or, in the absence of such determination, by the secretary of the committee.
- (2) The common seal of a corporation shall only be affixed to an instrument or document in the presence of:
- (a) where the corporation is constituted by one or 2 proprietors – that proprietor or those proprietors, as the case may be; or
  - (b) where the corporation is constituted by more than 2 proprietors – such 2 persons, being proprietors or committee-men, as the corporation determines or, in the absence of such determination, the secretary and one other committee-man,

who shall attest the fact and date of the affixing of the seal by his signature or their signatures.

- (3) Notwithstanding subsections (1) and (2), a committee-man shall, for the purpose of performing a duty or function or exercising a power delegated to him under the management module that applies to the corporation, be entitled to have the custody of the common seal of the corporation and to affix it to an instrument or document and, where he so affixes it, shall attest the fact and date of the affixing of the seal by his signature.
- (4) Where a committee-man referred to in subsection (3) has affixed the common seal of the corporation to an instrument or document, he shall be deemed to have done so under the authority of the delegation.
- (5) Subsection (4) shall not operate so as to enable a person fraudulently to obtain a benefit from its operation, but a benefit that accrues to a person from the operation of that subsection shall be deemed not to be fraudulently obtained if the benefit was first obtained by that person without fraud by him.

**31 Corporation excluded matter under Corporations Act 2001**

A corporation is declared to be an excluded matter for the purposes of section 5F of the Corporations Act 2001 in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies.

**32 Corporation to act through committee**

- (1) On and after the constitution of a corporation, there shall be a committee of the corporation which, subject to this Act, shall perform all the duties and functions, and may exercise all the powers, imposed or conferred on the corporation.
- (2) Those duties and functions shall be performed and those powers shall be exercised by the committee in such manner as the corporation by resolution passed at a general meeting directs or, in the absence of such a resolution, in such manner as the committee thinks fit.

**Division 2 Duties, functions and powers of corporation**

**33 General provisions**

- (1) A corporation shall perform the duties, may exercise the powers, and may perform the functions, imposed or conferred on it by or under this Act.
- (2) A corporation may do such things as are incidental or ancillary to the performance of its duties or functions or to the exercise of its powers.

**34 General duties**

A corporation shall, subject to this Act and the Regulations:

- (a) be responsible for the enforcement of its articles and the control, management and administration of the common property;
- (b) keep in a state of good repair and properly maintain the common property and all chattels in its possession, custody or control; and
- (c) maintain in good repair and proper order and, if renewal is reasonably necessary, renew, all pipes, wires, cables, ducts, and apparatus and equipment of any kind used, or intended, adapted or designed for use, in the provision of services in respect of which easements are created by section 25.

**35 Banking and investment of moneys of corporation**

- (1) A corporation shall open and maintain an account with the Territory Insurance Office or with an ADI into which it shall pay all moneys received by it and out of which shall be paid all expenditure incurred by it.
- (2) Subject to subsection (3), moneys of a corporation may be invested:
  - (a) in such manner as trust funds may be invested under the *Trustee Act*; or
  - (b) in such other manner as is authorised by a special resolution.
- (3) Moneys of a corporation shall not be invested in mortgages of land.

**36 Contributions by members of the corporation**

- (1) A corporation shall, from time to time, determine the amount that it will require by way of contributions from its members to discharge expenditure that it may reasonably be expected to incur, or has incurred, by reason of the performance of the duties and functions and the exercise of the powers imposed or conferred on it by this Act.
- (2) A corporation shall, in a determination made under subsection (1), specify the time within which, and the manner in which, contributions so determined are to be paid by its members.
- (3) Subject to this section and section 36A, the contribution payable in respect of each unit is such amount as bears to the total amount referred to in the determination the same proportion as the unit entitlement of the unit, as at the date of the determination, bears to the aggregate unit entitlement of all the units as at that date.
- (4) Where:
  - (a) a determination made under subsection (1) relates to expenditure to be incurred by the corporation in discharge of a specified liability; and
  - (b) before the making of that determination, the corporation has, by a unanimous resolution, resolved that contributions for that expenditure are payable in a proportion other than that specified in subsection (3),

the contribution payable in respect of each unit for that expenditure is such amount as is ascertained in accordance with that resolution.

- (4A) If a determination under subsection (1) relates to expenditure to be incurred in discharge of a specified liability imposed on the corporation that has been calculated using a formula, the contribution payable in respect of each unit for that expenditure is to be determined having regard to that formula unless before the making of the determination the corporation has, by a unanimous resolution, resolved otherwise.
- (5) The corporation shall cause notice of each determination made under subsection (1) to be given to its members and shall, in the notice given to a member, specify the amount payable by him in respect of his unit and the time within which, and the manner in which, that amount is payable.
- (6) If an amount payable in respect of a unit is not paid within the period specified in the notice, that amount is recoverable as a debt due to the corporation from the person who was the proprietor of the unit on the date on which the notice was so given and from the person who is the proprietor of that unit on the date on which the action is instituted.
- (7) The liability under subsection (6) is joint and several.

**36A Apportionment of expenditure in respect of condominium or estate development**

Notwithstanding anything in this Part, moneys due to or held by a corporation immediately before the registration of a units plan relating to a second or subsequent completed stage of a condominium development or estate development shall be apportioned for expenditure on or in relation to the completed units and common property in the condominium development or estate development immediately before the registration of the units plan relating to that second or subsequent completed stage of the condominium development or estate development.

**37 Statement of members' liability to corporation and inspection of books, &c.**

- (1) This section applies to the following persons:
- (a) the proprietor or mortgagee of a unit; and
  - (b) a person who produces the consent in writing of the proprietor of a unit to the making of a request under this section.

- (2) A person to whom this section applies may request the relevant corporation:
- (a) to issue to him within 14 days after the request is received by the corporation, a certificate under the seal of the corporation certifying whether or not any amount that is payable under section 36 by way of contribution in respect of that unit is unpaid on the date of the certificate and, if so, the amount unpaid and the date on or before which the amount is, or will become, due; or
  - (b) to make, as soon as is reasonably practicable after the request is received by the corporation, the books and records of the corporation available for his inspection and to give him reasonable opportunity to inspect those books and records.
- (3) A request under this section shall be in writing.
- (4) The corporation is entitled to charge a fee for supplying the certificate or making available the books and records under this section not exceeding the cost to the corporation of providing that service.
- (5) If default has been made by a corporation in complying with a request made under this section, each person who was, at the time when the default occurred, a committee-man of the corporation is, unless he proves that he took reasonable steps to ensure that the default did not occur or proves that the default occurred without his knowledge, guilty of an offence.

Penalty: 20 penalty units.

- (6) Where a person has acted in good faith on a matter stated in a certificate issued by the corporation under this section, then, in an action by or against the corporation, the corporation is estopped, as against that person, from denying the truth of that or any other matter stated in the certificate.

### **38 Names and addresses of committee-men**

A corporation shall comply with any reasonable request for the names and addresses of its committee-men.

### **39 No business to be carried on**

- (1) Except as provided by this section or in the course of, and for the purpose of, exercising its powers and performing its functions and duties, a corporation shall not carry on business.



- (1A) A corporation may own, manage, dispose of or otherwise deal with a unit created by the subdivision under Part IIIA of common property, but the corporation shall not have any voting rights in relation to the unit at a meeting of the corporation, neither can it appoint a committee-man by virtue of its ownership of the unit.
- (2) If default has been made by a corporation in complying with subsection (1), each person who was, at the time when the default occurred, a committee-man of the corporation is, unless he proves that he took reasonable steps to ensure that the default did not occur or proves that the default occurred without his knowledge, guilty of an offence.

Penalty: 100 penalty units.

#### **40 Borrowing powers**

A corporation may, if authorised by a resolution without dissent:

- (a) borrow moneys required by it for the purpose of performing its duties or functions or exercising its powers; and
- (b) secure the repayment of moneys borrowed by it and the payment of interest on those moneys.

#### **41 Breaches of articles may be remedied**

- (1) If a person who is bound by a provision of the articles of a corporation commits a breach of that provision by act or omission, the corporation may serve upon that person a notice in writing giving particulars of the breach and requiring him to remedy the breach within a reasonable time specified in the notice.
- (2) If the person upon whom the notice has been served fails to remedy the breach within the time specified in the notice, the corporation may itself remedy the breach.

#### **42 Acquisition and alienation of property**

- (1) A corporation may, if authorised by special resolution:
- (a) purchase, hire or otherwise acquire, or accept, personal property (not being a leasehold interest) for its own use or for any use in connection with the use and enjoyment of the common property; and
- (b) dispose of any property so purchased, acquired or accepted.

- (2) A corporation may, if authorised by resolution without dissent:
- (a) grant an easement over any portion of the common property;
  - (b) acquire or accept an easement granted for the benefit of the common property; or
  - (c) release an easement so granted, acquired or accepted,
- but an easement shall not be so granted, acquired, accepted or released except upon such terms and conditions and for such purposes as are specified in the resolution.
- (3) Subject to sections 39(1A) and 42A, a corporation is not capable, either at law or in equity, of acquiring or possessing any interest in land (not being an easement granted for the benefit of the common property).

#### **42A Acquisition of additional common property**

- (1) In this section, **land** means land held for an estate in fee simple.
- (2) A corporation may, if authorised by a resolution without dissent, accept a transfer or grant of land (not being a unit within the parcel) which is contiguous to the parcel but which is not subject to a mortgage, charge or writ, for the purpose of creating additional common property and, upon so doing, shall forthwith cause the dealing evidencing the transaction to be registered under the *Land Title Act*.
- (3) On the registration under the *Land Title Act* of a transfer or grant referred to in subsection (2):
- (a) the land comprised in the transfer or grant becomes common property and is subject to the provisions of this Act relating to common property; and
  - (b) the Registrar-General shall make in the Register such recordings in relation to that land as he thinks fit.

#### **42B Leasing of common property**

- (1) A corporation may, if authorised by a resolution without dissent of the corporation, grant a lease of the common property.
- (2) An estate management corporation may, if authorised by a special resolution of the corporation, grant a lease of the common property.
- (3) A building management corporation may, if authorised by a special resolution of the corporation, grant a lease of the common property.

#### **43 Agreements with members**

A corporation may, if authorised by a special resolution, enter into and carry out an agreement with a proprietor or occupier of a unit providing for the repair or maintenance of the unit or for the provision of amenities or services by it to that unit or to that proprietor or occupier.

#### **44 Special privileges relating to common property**

- (1) A corporation may, if authorised by a unanimous resolution or as otherwise prescribed, grant to a member, or any person who has derived an interest in a unit through a member, any special privilege (not being a lease) in respect of the enjoyment of part or parts of the common property.
- (2) A grant under subsection (1) may be terminated by notice in writing given by the corporation to the grantee in accordance with a special resolution.

#### **45 Recovery of certain repairs, &c.**

- (1) Where a corporation has performed any act which it was required or authorised by its articles or by or under this Act or any other law in force in the Territory to perform, and which related to one unit only or some of the units only, any money expended by the corporation in performing that act is recoverable by the corporation as a debt from the proprietor or proprietors, for the time being, of that unit or those units, as the case may be.
- (2) Where the act referred to in subsection (1) related to some of the units only the amount recoverable from a proprietor in respect of a unit bears to the whole amount of the debt the same proportion as the unit entitlement of the unit bears to the aggregate unit entitlement of all those units.
- (3) For the purposes of this section:
  - (a) **act** includes repairs and work; and
  - (b) an act shall be deemed to relate to a unit if, but only if, the act is wholly or substantially for the benefit of the unit or wholly or substantially the liability or the responsibility of the proprietor of the unit.

#### **46 Recovery of expenditure resulting from fault**

Where a corporation has incurred any expenditure or performed any repairs, work or act that it was required or authorised by its articles or by or under this Act or any other law in force in the

Territory to perform, the expenditure, repairs, work or act having been rendered necessary by reason of any wilful or negligent act or omission on the part of, or breach of any provision of its articles by, a member of the corporation, the amount of that expenditure or any money expended by it in performing the repairs, work or act is recoverable by it from that member as a debt.

**47 Liability of co-proprietors**

Where 2 or more persons are proprietors of a unit and an amount is recoverable under section 36 or 45 from the proprietor of that unit, the liability of those persons in respect of the payment of that amount is joint and several.

**47A Restrictions on powers of corporation**

(1) Notwithstanding anything contained elsewhere in this Act, a corporation shall not, during the initial period:

- (a) amend, rescind or add to its articles, or make articles in the place of articles rescinded, in such a manner that a right is conferred or an obligation is imposed on one or more, but not all, proprietors or in respect of one or more, but not all, units;
- (b) alter common property forming part of a building, or erect a structure, on the common property; or
- (c) borrow moneys or give securities,

unless the doing of that thing is authorised by an order of the Court.

(2) Without affecting any other remedy available against an original proprietor, where a corporation contravenes subsection (1):

- (a) the original proprietor is liable for any loss suffered by the corporation or a proprietor as a result of the contravention; and
- (b) the corporation or a proprietor may recover from the original proprietor, as damages for breach of statutory duty, any loss suffered by it or him,

unless:

- (c) the contravention occurred without the knowledge of the original proprietor;
- (d) the original proprietor was not in a position to influence the conduct of the corporation in relation to the contravention; or

- (e) the original proprietor, being in such a position, used all due diligence to prevent the contravention.
- (3) In this section ***initial period*** means the period commencing on the day on which the corporation is constituted and ending on the day on which there are proprietors of units the subject of the units plan (other than the original proprietor) the sum of whose unit entitlements is not less than one third of the aggregate unit entitlement.

### **Division 3      Committees of corporations**

#### **51      Chairman, secretary and treasurer of committee**

- (1) The committee-men shall, at the first meeting of a committee after they assume office, appoint a chairman, a secretary and a treasurer of the committee.
- (2) A person:
  - (a) shall not be appointed to an office referred to in subsection (1) unless he is a committee-man; and
  - (b) may be appointed to one or more of those offices.
- (3) A person appointed to an office referred to in subsection (1) shall hold office until:
  - (a) he ceases to be a committee-man;
  - (b) the receipt by the corporation from him of notice in writing of his resignation from that office; or
  - (c) another person is appointed by the committee to hold that office,whichever first occurs.
- (4) The chairman shall preside at all meetings of the committee at which he is present and, if he is absent from a meeting, the committee-men present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairman.
- (5) A person shall not exercise the powers, or perform any of the authorities, duties or functions of the corporation or the treasurer of the corporation, being powers, authorities, duties or functions relating to the receipt or expenditure of, or accounting for, moneys, or the keeping of the books of account, of the corporation, unless he is:

- (a) a member of the corporation or a committee-man and is the treasurer of the corporation or of the committee; or
- (b) a person with whom the treasurer of the corporation is required by an order of the committee to jointly exercise that power or perform jointly that authority, duty or function, and who is enabling the treasurer to comply with the order.

Penalty: 100 penalty units.

- (6) The treasurer of a corporation may delegate the exercise of any of his powers (other than this power of delegation), or the performance of any of his authorities, duties or functions as treasurer, the delegation of which is specifically approved by the committee, to another committee-man so approved, subject to such limitations as to time or otherwise as are so approved and, while a delegate is acting in accordance with the delegation, he shall be deemed to be the treasurer of the corporation.
- (7) The committee of a corporation, may by notice in writing served on the treasurer of the corporation, order that he shall not exercise any of his powers, or perform any of his authorities, duties or functions that are specified in the notice, unless he does so jointly with another person so specified.
- (8) A person who has possession or control of any:
  - (a) records, books of account or keys belonging to a corporation; or
  - (b) other property of a corporation,

shall, within 7 days after service on him of notice of a resolution of the committee requiring him to do so, deliver those records, books of account or keys or that other property to a committee-man specified in the notice.

Penalty: 1 000 penalty units.

### **53 Statutory restrictions on powers of committee**

- (1) Unless otherwise determined pursuant to a special resolution of the corporation, a committee shall not, in any one case, undertake expenditure exceeding the amount determined under section 36(1).
- (1A) Notwithstanding subsection (1), a corporation or committee shall not cause an improvement to be made to the common property that, in any one case, exceeds the prescribed amount (or where no amount is prescribed, exceeds the amount calculated by multiplying \$200 by the number of units) unless:

- (a) it does so in pursuance of a resolution passed in general meeting without dissent;
  - (b) it resolves by special resolution in general meeting that the improvement is essential for the health, safety or security of users of the common property; or
  - (c) it does so to comply with a notice or order served on it by a public authority or council.
- (2) Where proposed expenditure would exceed an amount referred to in subsection (1), the committee shall:
- (a) submit the proposal for determination at an extraordinary general meeting of the corporation convened for the purpose of, or for purposes which include, consideration of the proposal; and
  - (b) if the proposed expenditure is in respect of work to be performed or the purchase of personal property, submit at least 2 tenders to that meeting with the proposal.
- (3) Subsection (1) does not apply to the expenditure of moneys:
- (a) in payment of a premium of insurance effected by or on behalf of the corporation;
  - (b) to comply with a notice or order served on the corporation by a public authority or council; or
  - (c) in discharge of a liability incurred in respect of an obligation of the corporation authorised by the corporation in general meeting.

#### **57 Validity of acts of committee**

No act done in good faith by the committee is invalidated merely by reason of the fact that at the relevant time there was some defect in the appointment or continuance in office of a committee-man.

### **Division 4 Management modules**

#### **58 Management modules**

- (1) The regulations may:
- (a) prescribe management modules for corporations; and
  - (b) provide for the application to a corporation of a management module; and

- (c) make other provisions (such as transitional provisions) for the application.
- (2) A management module must specify:
- (a) how a corporation may make a decision (including, for example, requirements about meetings and voting of the committee of the corporation); and
  - (b) the records that must be kept by the corporation; and
  - (c) any other requirements about the management of the corporation.
- (3) Without limiting subsection (1)(c), the regulations may provide:
- (a) for a specified period after the commencement of this section – the application to a corporation of this Part as in force before the commencement; and
  - (b) the application of a management module to the corporation after the end of the period.

## **Division 6 Articles of corporations**

### **76 Articles of corporation**

On and after the constitution of a corporation by section 27, the articles set out in Schedule 1 shall, subject to any amendment or rescission of, or addition to, those articles made under section 78, be the articles of the corporation.

### **77 Effect of articles**

- (1) The corporation and each of the members of the corporation are bound by, and have the rights conferred by, the articles of the corporation to the same extent as if:
- (a) the corporation and each member had agreed under seal with each other and each other member to be bound by the articles; and
  - (b) the articles contained covenants on the part of the corporation and each member to observe all the provisions of the articles.
- (2) Unless the articles of the corporation otherwise provide, an occupier of a unit, not being the proprietor of the unit, is bound by the articles of the corporation as if he were the proprietor of the unit.



## **78 Alteration of articles**

- (1) A corporation may, by special resolution, alter its articles by amending, rescinding or adding to its articles or by making articles in the place of articles rescinded.
- (2) Subject to subsection (3) an alteration of the articles of a corporation under subsection (1):
  - (a) has no force or effect unless a copy of the special resolution making the alteration, certified under the seal of the corporation as a true copy, is lodged with and registered by the Registrar-General; and
  - (b) has force and effect on and from the date of its registration or such later date as is fixed by the special resolution.
- (3) To the extent that an alteration of the articles of a corporation made under subsection (1) or (2) results in a provision of the articles:
  - (a) being inconsistent with this Act other than a provision in Schedule 1;
  - (b) imposing a duty or conferring a power on the corporation which is not incidental or ancillary to the performance of the duties or functions, or the exercise of the powers, imposed or conferred on it by this Act; or
  - (c) prohibiting or restricting the devolution, transfer, lease or mortgage of, or any other dealing with:
    - (i) an interest in a unit; or
    - (ii) the equitable estate of the proprietor of a unit in the common property,

the alteration has no force or effect.

## **78A Copy of articles to be provided**

- (1) Where a unit or common property the subject of a units plan is leased, otherwise than to a proprietor of a unit, for the purpose of its being used as, or in connection with, a residence, the lessor shall, within 7 days after the lessee's becoming entitled under the lease to possession of the unit or common property, provide the lessee, in accordance with subsection (2), with a copy of the articles of the corporation for the time being in force in respect of the units plan.

Penalty: 20 penalty units.

- (2) A lessee is provided with a copy of the articles in accordance with this section if the copy is:
  - (a) in any case, served personally on the lessee;
  - (b) where the lease relates to a unit or common property that is fully enclosed by walls or other structures – left in a conspicuous position at the unit or on the common property; or
  - (c) where the lease relates to a unit – served by leaving it with a person, who apparently has attained the age of 16 years, at the address of the unit or by posting it by prepaid post to the lessee at that address.

**79 Application of *Interpretation Act***

- (1) The *Interpretation Act* applies to and in relation to the articles of a corporation as if the articles were an Act and as if each article were a section of an Act.
- (2) Expressions used in the articles of a corporation have, unless the contrary intention appears, the same meaning as in this Act.

**Part VA Duties, &c., of proprietors and other occupiers of units**

**79A Duties of proprietors and other occupiers of units**

A proprietor, mortgagee in possession (whether by himself or another person), lessee or occupier of a unit shall not:

- (a) do any thing or permit any thing to be done on, in or in relation to that unit so that:
  - (i) support or shelter provided by that unit for another unit or common property is interfered with; or
  - (ii) the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, heating oil and other services (including telephone, radio and television services) through or by means of a pipe, wire, cable or duct for the time being in the unit is interfered with;
- (b) use or enjoy that unit, or permit that unit to be used or enjoyed, in such a manner or for such a purpose as to cause a nuisance or hazard to the occupier of another unit (whether that person is a proprietor or not); or

- (c) subject to sections 42B and 44, use or enjoy the common property in such a manner or for such a purpose as to interfere unreasonably with the use or enjoyment of the common property by the occupier of another unit (whether that person is a proprietor or not) or by any other person entitled to the use and enjoyment of the common property.

## **Part VI Insurance**

### **80A Application of Part**

- (1) This Part does not apply to or in relation to the corporation of an estate development except in relation to improvements and buildings the common property of the estate development.
- (2) Except as prescribed by the Regulations, this Part applies to a building management corporation and a reference to a corporation is to be taken to include a building management corporation.

### **80 Insurance by corporation**

- (1) Subject to subsection (3), a corporation shall insure and keep insured all buildings and other improvements on the parcel for their replacement value from time to time against all the following risks:
  - (a) fire, lightning, tempest, earthquake and explosion;
  - (b) riot, civil commotion, strikes and labour disturbances;
  - (c) malicious damage;
  - (d) bursting, leaking and overflowing of boilers, water tanks, water pipes and associated apparatus; and
  - (e) impact of aircraft (including parts of, and objects falling from aircraft) and of road vehicles, horses and cattle.
- (2) Subject to subsection (3), a corporation shall insure itself and keep itself insured against liability in respect of:
  - (a) death, bodily injury or illness; or
  - (b) loss of, or damage to, property,

occurring in connection with the common property as a result of an accident, for such aggregate amount of liability, being not less than the prescribed amount or, where no amount is prescribed, \$2,000,000 at any one time, as is determined by the corporation.

- (3) A corporation may, by unanimous resolution resolve that it will not insure against such of the risks referred to in subsections (1) and (2) as are specified in the resolution, and, in that event, the corporation is not required by this section to insure against a risk so specified.
- (4) Where a corporation has, under subsection (3), resolved that it will not insure against a particular risk, a proprietor or mortgagee of a unit may at any time serve on the corporation a written notice requiring it to insure against that risk.
- (5) 28 days after the receipt by the corporation of the notice, the unanimous resolution ceases to have effect in relation to the risk specified in the notice and the corporation shall, in accordance with subsection (1) or (2), as the case may be, insure against that risk.
- (6) As soon as is practicable after the receipt by the corporation of the notice, the corporation shall notify every member and every mortgagee of a unit:
  - (a) of the particulars of the notice and the date of its receipt; and
  - (b) of the date on and from which the risk specified in the notice is, or is to be, covered by insurance effected by the corporation.
- (7) Nothing in this section shall be construed as limiting the right of a corporation to effect such additional insurance as it determines.
- (8) In this section **risk** includes any liability referred to in subsection (2).

## **81 Insurable interests of corporation**

For all purposes connected with any insurance effected by it under section 80(1), a corporation shall be deemed to have an insurable interest in the buildings and improvements on the parcel to the extent of their replacement value.

## **82 Corporation's insurance moneys not to be brought into contribution**

The moneys received by a corporation under a policy of insurance effected by it under section 80(1) in respect of any buildings or other improvements on the parcel shall not be liable to be brought into contribution with moneys received under any other policy of insurance except another policy effected under that subsection in respect of the same buildings or improvements.

**83 Inspection of policies and receipts for premiums**

A corporation shall, on the written request of a member or the mortgagee of a unit, produce for inspection by the member or mortgagee the policy of insurance effected by the corporation and the receipt for premiums paid under that policy.

**84 Mortgage insurance of unit**

Where the estate or interest of the proprietor of a unit is subject to a mortgage, the proprietor may effect one or more policies of insurance that indemnify him against liability under the mortgage, being liability arising out of damage to, or destruction of, the unit.

**85 Payment under policy**

Where a policy of insurance is in force under section 84, the insurer is liable to pay to the mortgagee whose interest is noted on the policy or, if there are 2 or more such mortgagees, to those mortgagees in their order of registered priority:

- (a) the sum insured as stated in the policy;
- (b) the amount of the loss; or
- (c) the amount sufficient, at the date of the loss, to discharge the mortgage noted on the policy,

whichever is the least amount.

**86 Transfer of mortgagee's interest to insurer**

Payment by the insurer to a mortgagee under section 85 does not entitle the mortgagor to a discharge of the mortgage, but, upon that payment:

- (a) if the amount paid equals the amount necessary to discharge the mortgage, the insurer is entitled to obtain from the mortgagee a transfer of the mortgage; or
- (b) if the amount paid is less than the amount necessary to discharge the mortgage, the insurer is entitled to obtain from the mortgagee a transfer of an undivided share of the mortgagee's estate and interest in the mortgage that bears to that estate and interest the same proportion as the amount paid bears to the amount that was owing under the mortgage immediately before the payment.

**87 Mortgage insurance moneys not to be brought into contribution**

The moneys received under a policy of insurance effected in relation to a unit by the proprietor of that unit under section 84 shall not be brought into contribution with moneys received under any other policy of insurance except another policy effected under that section which indemnifies that person against liability arising out of damage to, or destruction of, that unit.

**88 Other insurance by proprietor**

Nothing in this Part shall be construed as limiting the right of a proprietor of a unit to insure against damage to, or destruction of, the unit to the extent of its replacement value.

**89 Application of insurance moneys**

Subject to this Act and to any order of the Court, where a corporation receives insurance moneys in respect of damage to, or destruction of, any building or improvement on the parcel, it shall, without delay, apply those moneys to rebuilding and reinstating the building or improvement.

**Part VII Administrators of corporations**

**89A Application of Part**

This Part applies to a building management corporation and a reference to a corporation is to be taken to include a building management corporation.

**90 Appointment of administrator**

- (1) A corporation, a creditor of a corporation or a person having an estate or interest in a unit may apply to the Court for the appointment as administrator of the corporation of a person who has consented to act in that capacity.
- (2) On an application made under subsection (1), the Court may, in its discretion and on cause shown, by order, appoint the person named in the application to be administrator of the corporation on such terms and conditions as to remuneration or otherwise as it thinks fit.
- (3) The remuneration of an administrator of a corporation and the expenses incurred by him in the performance of his duties and functions and the exercise of his powers as an administrator shall be deemed to be expenditure incurred by the corporation.

**91 Removal or replacement of administrator**

On an application made by the administrator of a corporation, the corporation or a person referred to in section 90(1), the Court may, in its discretion, by order, remove or replace the administrator of the corporation.

**92 Notice to Registrar-General and corporation of order under section 90 or 91**

In an order under either section 90 or 91 the Court shall give such directions as it thinks fit with respect to the giving of notice of the order to the Registrar-General and to the corporation.

**93 Duties, functions and powers of administrator**

- (1) Subject to this section, the administrator of a corporation shall perform the duties, and may exercise the powers and perform the functions, of the corporation to the exclusion of the corporation and its committee.
- (2) Except with the approval of the Court, the administrator of a corporation shall not do any act that is required by this Act to be authorised by a unanimous resolution.
- (3) On application made to the Court by the administrator of a corporation or a person referred to in section 90(1), the Court may give such directions as it thinks fit with regard to the manner in which the administrator shall perform his duties and functions and exercise his powers.

**94 Administrator may delegate duties, functions and powers**

- (1) An administrator of a corporation may, by writing under his hand, delegate to any person, either generally or otherwise as provided by the instrument of delegation, all or any of his duties, functions and powers, except this power of delegation.
- (2) A duty so delegated shall be performed, and a function or power so delegated may be performed or exercised, by the delegate in accordance with the instrument of delegation.
- (3) A delegation under this section is revocable at will and does not prevent the performance of a duty or function, or the exercise of a power, by the administrator of the corporation.

**Part VIII                    Cancellation and alteration of units plans****94A            Application of Part**

This Part applies to a building management corporation and a reference to a corporation is to be taken to include a building management corporation.

**94AA          Jurisdiction of Supreme Court**

- (1) In this Part, a reference to the Court is a reference to the Supreme Court.
- (2) The Supreme Court has jurisdiction to deal with an application made to it under this Part.

**95              Court may order cancellation of units plan**

- (1) A corporation, the administrator of a corporation or a member of a corporation may apply to the Court for an order for the cancellation of the units plan.
- (2) A copy of an application under this section shall be served on the Registrar-General.
- (3) On an application made under subsection (2), the Court may make a provisional order, or a final order, for the cancellation of the units plan or may make an order dismissing the application.
- (4) The Court shall not make an order for the cancellation of a units plan unless it is satisfied that, having regard to the rights and interests of all persons having estates or interests (whether registered or not) in the units, it is just and equitable to do so.
- (5) If the Court considers, on an application for an order under this section, that it is necessary to impose conditions, and give directions, to be complied with before the making of a final order for the cancellation of the units plan for the purpose of adjusting, as between all persons having registered estates or interests in the units, the respective rights and duties of those persons so far as they may be affected by the cancellation of the units plan, the Court shall make a provisional order for the cancellation of the units plan specifying the conditions and directions to be complied with before the making of a final order.
- (6) The Court may, if satisfied, on an application made for the purpose, that the conditions and directions specified in the provisional order have been complied with, make a final order for the cancellation of the units plan.



- (7) A final order may include directions to be complied with after the cancellation of the units plan and, in such a case, the order may be enforced as if it were a judgment of the Court obtained by a person for whose benefit the directions were given against the person required to comply with the directions.

#### **95A Cancellation of units plan by consent**

- (1) The proprietors of the units of a units plan may, by unanimous resolution at a general meeting of the corporation called for that purpose, authorise the corporation to apply for the cancellation of the units plan.
- (2) As soon as practicable after being so authorised the corporation shall, in the prescribed form, apply to the Registrar-General for the cancellation of the units plan.
- (3) An application under subsection (2) shall be accompanied by the consent in writing to the proposed cancellation of each of the proprietors and the fee prescribed under the *Registration Act*.
- (4) On an application under subsection (2) being registered, sections 96 and 97, with the necessary changes, apply as if the application were a final order of the Court made under section 95.

#### **96 Effect of registration of order for cancellation of units plan**

- (1) On the registration of an order for the cancellation of a units plan:
- (a) the corporation is dissolved;
  - (b) the title of the common property is and the title of each of the units are determined;
  - (c) the land comprised in those titles forms one parcel of land; and
  - (d) the persons who were, immediately before the registration of the order, the proprietors of the units become possessed of an estate in fee simple in the parcel of land as tenants in common in undivided shares proportional to the unit entitlement of their respective units, or, if a person was, immediately before the registration of the order, the proprietor of all the units, that person becomes possessed of an estate in fee simple in the parcel of land.
- (2) For the purposes of subsection (1)(d), if, immediately before the registration of the order, 2 or more persons were proprietors, as joint tenants or as tenants in common, of a unit, 2 or more units or all the units, then, the share in the estate, or the whole estate, as

the case may be, vested by that paragraph in those persons is vested in them jointly if they were joint tenants or, if they were tenants in common is vested in them as tenants in common, in the same shares as they held in the unit or units.

- (3) The share in the estate, or the estate, as the case may be, of which a person becomes possessed under subsection (1)(d) is subject to any mortgage and any easement referred to in section 11 of the *Real Property (Unit Titles) Act*.

## **97 Rights and liabilities of corporation vested in former members**

- (1) On the dissolution of a corporation under section 96:
  - (a) all rights, whether at law or in equity, vested in the corporation immediately before the dissolution are vested jointly in the persons who were, immediately before the dissolution the members of the corporation;
  - (b) subject to subsection (2), the persons who, immediately before the dissolution, were the members of the corporation are jointly and severally liable for all the liabilities of the corporation subsisting immediately before the dissolution; and
  - (c) for the purposes of paragraphs (a) and (b), a reference in an instrument to the corporation shall be read as a reference to those persons.
- (2) On an application made to the Court before the order for the cancellation of the units plan is made, the Court may, if it considers, in the circumstances of the case, that it is just and equitable to do so, by order, vary the operation of subsection (1)(a) or (b) in such manner as it thinks fit.

## **98 Approval of scheme for alteration of units plan**

- (1) Where:
  - (a) after the registration of a units plan, a building or other improvement on the parcel is damaged or destroyed;
  - (b) an order for the cancellation of the units plan has not been made under this Part; and
  - (c) an application for such an order is not pending,

an application may be made to the Court for an order, approving a scheme that makes provision for the reinstatement of the building or other improvement, or, in a case where a unit has been damaged or destroyed, for the elimination of that unit and for any

consequential alteration of the units plan.

- (2) An application under this section may be made by the corporation, by a majority of the members of the corporation jointly or, if an administrator of the corporation has been appointed, by the administrator.
- (3) A copy of an application under this section for the approval of a scheme providing for the elimination of a unit shall be served on the Registrar-General.
- (4) A scheme submitted for the approval of the Court shall include provisions showing:
  - (a) the proposed reinstatement or elimination;
  - (b) the manner in which it is proposed to apply insurance moneys paid or payable in respect of the damage or destruction;
  - (c) the compensation or other moneys to be paid to the proprietor of a unit and any other person who may be adversely affected by the scheme; and
  - (d) where the scheme provides for the elimination of a unit, the manner in which it is proposed that the units plan be altered, including any necessary alteration of the schedule of unit entitlement, to enable effect to be given to the scheme.
- (5) The Court may, on the hearing of an application under this section, make an order approving the scheme if it is satisfied that it is just and equitable to do so and may, in the order, give such directions as it thinks are necessary or expedient to enable effect to be given to the scheme.

## **99 Order of Court for alteration of units plan**

The Court, if satisfied, on an application made for the purpose, that the provisions of a scheme approved by it providing for the elimination of a unit (other than the provisions for the alteration of the units plan) have been carried out and that the directions (if any) given in the order approving the scheme have been complied with, shall make an order directing such alteration of the units plan as was approved by it.

**100 Effect of registration of order for elimination of unit**

On the registration of an order for the alteration of a units plan, the units plan shall be deemed to be altered in the manner directed by the order of the Court and:

- (a) the title of the unit proposed to be eliminated is determined;
- (b) the land comprised in the common property shall be deemed to include the land that, immediately before the registration of the order, comprised that unit; and
- (c) section 25(3)(a) has effect as if a reference in that section to the registration of the units plan were a reference to the registration of the order for the alteration of the units plan.

**101 Interested persons may be heard**

Each of the following persons has the right to appear and to be heard in support of, or in opposition to, an application made under section 95 or 98:

- (a) the corporation or, if an administrator has been appointed, the administrator of the corporation;
- (b) a member of the corporation;
- (c) a person claiming to have an estate or interest in a unit;
- (d) an insurer who has effected insurance of a building or other improvement on the parcel; and
- (e) the Minister.

**102 Directions for lodging orders with Registrar-General**

The Court shall in a final order under section 95, or in an order under section 99, give such directions as it thinks fit with respect to the taking out of the order and the lodging of a copy of the order with the Registrar-General.

**Part IX Miscellaneous****103 Facilities for service of documents**

- (1) A corporation (other than a building management corporation) shall cause to be continuously displayed in a conspicuous place on the parcel a notice showing the name of the corporation and the address shown on the units plan for service of documents.

- (1A) A building management corporation must cause to be continuously displayed in a conspicuous place on the building lot for which it is incorporated a notice showing the name of the corporation and the address shown on the building development plan for service of documents.
- (2) A corporation (other than a building management corporation) shall cause to be continuously available in a conspicuous and accessible place on the parcel a receptacle suitable for purposes of postal delivery, bearing the name of the corporation in clear and legible characters.
- (3) A building management corporation must cause to be continuously available in a conspicuous and accessible place on the building lot a receptacle suitable for purposes for postal delivery, bearing the name of the corporation in clear and legible characters.

Penalty for an offence against this section: 20 penalty units.

#### **104 Service of documents**

A document may be served on a corporation:

- (a) by sending it by prepaid post as a letter properly addressed to the corporation at the address shown on the units plan or, if the corporation is a building management corporation, shown on the building development plan for service of documents; or
- (b) if that address for service is the postal address of the building on the parcel or building lot – by placing it in the receptacle referred to in section 103(2) or (3).

#### **104A Delegation**

- (1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

**105 Evidence of resolutions**

A document bearing the seal of the corporation and stating:

- (a) at a general meeting held on a specified date a resolution in the terms set out in the document was passed; and
- (b) the resolution was a unanimous, special or ordinary resolution, is evidence of the facts stated in the document.

**106 Resolution of disputes, &c.**

- (1) An application may be made under this section:
  - (a) if a corporation, a mortgagee of a unit or a member claims that a breach of this Act or of the articles of the corporation has occurred;
  - (b) if a member claims to have been prejudiced, as occupier of a unit, by the wrongful act or default of the corporation, the committee or another member;
  - (c) if a member claims that a decision of the corporation or the committee is unreasonable, oppressive or unjust; or
  - (d) if a dispute arises:
    - (i) between a corporation or the committee and a member; or
    - (ii) between 2 or more members,in relation to any aspect of the occupation or use of a unit or the common property.
- (2) Subject to this section, an application shall be made to the Court and dealt with by the Court within its small claims jurisdiction as if the proceedings were proceedings under the *Small Claims Act*, and the *Local Court Act* and the *Small Claims Act* and the Rules made under those Acts shall apply accordingly.
- (3) A member appointed by a corporation may represent the corporation in proceedings under this section.
- (4) The Court may, in respect of an application under this section, do one or more of the following:
  - (a) attempt to settle the proceedings between the parties by the processes of mediation and arbitration;

- (b) require a party to provide reports or other information for the purposes of the proceedings;
  - (c) order that a party take such action as, in the opinion of the Court, is necessary to remedy a breach or default, or to resolve a dispute, and is specified in the order;
  - (d) order that a party refrain from a further action of a kind specified in the order;
  - (e) subject to subsection (5), alter the articles of a corporation;
  - (f) confirm, vary or reverse a decision of the corporation or the committee;
  - (g) give judgment on a monetary claim;
  - (h) order that a corporation refund to a member money paid to the corporation by the member;
  - (j) make such incidental or ancillary orders as it thinks fit.
- (5) The Court shall not make an order to alter the articles of a corporation unless:
- (a) the corporation is a party to the proceedings or the Court is satisfied that the corporation has been given a reasonable opportunity to become a party to the proceedings;
  - (b) if it appears to the Court that the alteration could adversely affect a member who is not a party to the proceedings, the Court is satisfied that the member has been notified of the possibility that such an order could be made and given a reasonable opportunity to make submissions to the Court in relation to the matter; and
  - (c) in any event, the Court is satisfied that the order is essential to achieve a fair and equitable resolution of the matter in dispute.
- (6) Where the Court makes an order altering the articles of a corporation, the Court shall forward a copy of the order to the Registrar-General.
- (7) Where an application is made under this section and the Court is satisfied that an interim order is justified by the urgency of the case, the Court may make an interim order to preserve the status quo between the parties to the proceedings pending the final resolution of the proceedings.

- (8) An interim order under subsection (7):
- (a) has effect for such period as the Court may determine and specifies in the order, and may be renewed by the Court from time to time;
  - (b) may be made or renewed whether or not notice of the application has been given to a respondent; and
  - (c) unless sooner revoked or the order expires, ceases to have effect on the determination or resolution of the application under this section.
- (9) The Court may decline to proceed with an application under this section if it considers that it would be more appropriate for proceedings to be taken in another court.
- (10) This section does not limit or derogate from any civil remedy at law or in equity.
- (11) In this section, **member**, in relation to a corporation, includes a person who is, by section 77, bound by the articles of the corporation.

**107 Jurisdiction conferred on court**

The Court has jurisdiction in all applications made to it under this Act.

**108 Rates**

For the purposes of the *Local Government Act* and the *Darwin Rates Act*:

- (a) each unit in a units plan shall, on and after the registration of the units plan, be rated separately;
- (b) a building lot under this Act is to be rated separately until it is subdivided into units; and
- (c) no rates in respect of the parcel are payable under those Acts by the corporation.

**109 Fees**

- (1) There are payable in respect of applications (other than applications to the Court) and other matters under this Act such fees as are specified in, or ascertained in accordance with, the regulations made under the *Registration Act*.



- (2) A fee payable under subsection (1) is payable to the Registrar-General.

**110 Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed by this Act or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**Part X Transitional matters for Justice Legislation Amendment Act (No. 2) 2006**

**111 Body corporate incorporated under section 27 or 28**

- (1) This section applies in relation to the following amendments made by the *Justice Legislation Amendment Act (No. 2) 2006*:
- (a) the amendment to insert in section 4(1) of this Act the definitions of ***building management corporation*** and ***estate management corporation***;
  - (b) the amendments to sections 27 and 28 of this Act.
- (2) The amendments have effect in relation to a body corporate constituted under section 27 or 28 before, on or after the commencement of those amendments.

**Part XI Transitional matters for Land Title and Related Legislation Amendment Act 2008**

**112 Application**

- (1) Subject to subsection (5A), the amendments relating to an approval for a subdivision or consolidation under this Act apply to an application made on or after the commencement for such an approval.
- (2) The amendments relating to the requirements for a disclosure statement or its variation apply to such a statement or variation lodged with the Registrar-General on or after the commencement.
- (3) The amendments relating to the provision of security for an approval under section 26D or 26S apply to such an approval made on or after the commencement.

- (4) The amendments relating to the transfer of a developer's interest under section 26G or 26U apply to such a transfer that occurs on or after the commencement.
- (5) The amendments to sections 21A and 26ZI for a document covered by section 9A of the *Real Property (Unit Titles) Act* apply to such a document lodged with the Registrar-General on or after the commencement of the amendments made to that Act by the amending Act.
- (5A) The amendment to section 16(1)(d) that is made by the amending Act does not apply to proposals that relate to 1 or both of the following:
- (a) a development permit or exceptional development permit for the carrying out of works on or in relation to land, that was in force under the *Planning Act* immediately before the commencement;
  - (b) a building permit that was in force under the *Building Act* immediately before the commencement.
- (5B) The regulations may provide for a matter that is of a savings or transitional nature consequent on the enactment of the *Land Title and Related Legislation Amendment Act 2008*.
- (5C) A regulation mentioned in subsection (5B) may have retrospective operation only to the extent to which the regulation:
- (a) does not have effect before the commencement of this section; and
  - (b) does not disadvantage a person (other than the Territory or a Territory authority) by decreasing the person's rights or imposing liabilities on the person.
- (5D) Subsection (5B) and any regulation made under the subsection cease to have effect 1 year after the commencement of this section.
- (6) In this section:

**amending Act** means the *Land Title and Related Legislation Amendment Act 2008*.

**amendments** means:

- (a) the amendments made to this Act by the amending Act; and

- (b) in relation to a particular matter – each of the amendments mentioned in paragraph (a) that relates to the matter.

**commencement** means the commencement of the amendments.

## **Part XII                    Transitional matters for Unit Title Schemes Act 2009**

### **113                    Application of Act**

This Act does not apply to land:

- (a) that is scheme land under the *Unit Title Schemes Act*; or
- (b) for which a development permit or exceptional development permit has been issued on an application covered by section 202 of the *Planning Act*; or
- (c) to which the *Unit Title Schemes Act* applies as prescribed by regulations made under section 112 of that Act.

### **114                    Application – method of voting**

This Act as amended by sections 164, 165, 169, 170, 171 and 176 of the *Unit Title Schemes Act 2009*:

- (a) applies only in relation to voting about a resolution of a corporation occurring on or after the commencement of this section (the **commencement**); and
- (b) does not affect any decision made by a corporation before the commencement.

### **115                    Application – jurisdiction of Supreme Court**

- (1) This Act as amended by section 173 of the *Unit Title Schemes Act 2009*:

- (a) applies only in relation to an application made under Part VIII of this Act on or after the commencement of this section (the **commencement**); and
- (b) does not affect any application made to the Local Court under that Part made before the commencement.

- (2) Any proceedings commenced in relation to an application made under Part VIII before the commencement may continue as if this Act as in force immediately before the commencement continues to be in force.

## Schedule 1 Articles

section 76

1. In these articles, unless the contrary intention appears:
  - Act** means the *Unit Titles Act*.
  - authorised agent** means a person authorised by the corporation.
2. (1) Subject to this article, an authorised agent may, at all reasonable times:
  - (a) inspect a unit for the purpose of ascertaining whether or not the Act and these articles are being observed;
  - (b) carry out in, on or to a unit any maintenance, repairs or work that the corporation is, by the Act or these articles, required to carry out in, on or to the unit;
  - (c) carry out in, on or to a unit the functions imposed, exercise the powers conferred and perform the duties imposed, by the Act and these articles on the corporation in so far as they relate to the unit, and may, for any of those purposes, enter and remain in or on the unit for such period as is reasonably necessary for the purposes of doing any act referred to in this article.
- (2) An authorised agent shall not do any act referred to in this article unless:
  - (a) the corporation or the authorised agent has given to the proprietor of the unit or to the occupier or user of the unit reasonable notice of his intention to enter in or on the unit or to do the act; or
  - (b) by reason of an emergency, it is essential that the act be done without notice having been so given.
- (3) Each member of the corporation shall:
  - (a) pay all rates, taxes, charges, outgoings and assessments payable in respect of his unit;
  - (b) repair and maintain his unit and keep his unit in a state of good repair;
  - (c) if he agrees to transfer his unit to another person, forthwith give notice of the fact to the corporation;

- (d) comply with any requirement made by or under any law in force in the Territory to carry out repairs or to do any work or thing in relation to his unit;
  - (e) if his unit is to be unoccupied for a continuous period exceeding 30 days, give notice of the fact to the corporation;
  - (f) if a change occurs in the occupancy of his unit, notify the corporation of that fact and of the name of the person who will occupy the unit.
- (4) A member of the corporation shall not:
- (a) subject to sections 42B and 44, use the common property or permit it to be used so as unreasonably to interfere with the use and enjoyment of the common property by another member of the corporation, by the occupier or user of another unit or by an invitee or licensee of such a member or person;
  - (b) use his unit or permit it to be used in such a manner as to cause a nuisance, hazard or substantial annoyance to another member of the corporation or an occupier or user of another unit or to an invitee or licensee of such a member or person;
  - (c) make within his unit or on the common property such a noise as might reasonably, in the circumstances, cause substantial annoyance to another member of the corporation or to the occupier or user of another unit;
  - (d) use his unit, or permit it to be used, in a manner that results in there being a contravention of a law in force in the Territory;
  - (e) except in accordance with the permission given by a majority resolution of the corporation and in accordance with the provisions of any law in force in the Territory applicable in the circumstances, erect or alter any structure in or on his unit; and
  - (f) except in accordance with the permission given by a majority resolution of the corporation, keep any animals or birds in or on his unit or the common property.
- (5) A person who becomes the proprietor of a unit shall, within 7 days after lodging with the Registrar-General for registration the instrument under which he has become the proprietor of the unit, give to the corporation notice that he has become the proprietor of the unit.

2A. A permission mentioned in clause (2)(4)(f) may be withdrawn at any times by a majority resolution of the corporation and notice given to the member of the corporation concerned.

3. DAMAGE TO LAWNS, &c., ON COMMON PROPERTY

The proprietor or occupier of a unit shall not:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or on common property; or
- (b) use for his own purposes as a garden a portion of the common property.

4. DAMAGE TO COMMON PROPERTY

The proprietor or occupier of a unit shall not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, a structure that forms part of the common property without the permission given by a majority resolution of the corporation, but this by-law does not prevent a proprietor or person authorised by him from installing:

- (a) a locking or other safety device for protection of his unit against intruders; or
- (b) a screen or other device to prevent entry of animals or insects into his unit.

## Schedule 2

section 26R(1)

WARNING: THIS STATEMENT CONTAINS DETAILS OF AN ESTATE DEVELOPMENT SCHEME WHICH IS PROPOSED TO BE DEVELOPED IN [insert number of stages] STAGES ON THE LAND DESCRIBED WITHIN.

PERSONS INTERESTED ARE ADVISED THAT THE PROPOSED SCHEME MAY BE VARIED AND MAY NOT BE COMPLETED. HOWEVER, ANY DEPARTURE FROM THE PROPOSALS OUTLINED IN THE STATEMENT WILL ATTRACT PROVISIONS OF THE *PLANNING ACT* AND PART IVB OF THE *UNIT TITLES ACT*.

THIS STATEMENT SHOULD NOT BE CONSIDERED ALONE BUT IN CONJUNCTION WITH THE RESULTS OF THE SEARCHES AND INQUIRIES NORMALLY MADE IN RESPECT OF A LOT IN AN ESTATE DEVELOPMENT SCHEME AND A LOT RESULTING FROM THE SUBDIVISION OF LAND IN ACCORDANCE WITH ALL RELEVANT INSTRUMENTS OF DETERMINATION UNDER THE *PLANNING ACT*.

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**ENDNOTES**
**1****KEY**

Key to abbreviations

**amd = amended**  
**app = appendix**  
**bl = by-law**  
**ch = Chapter**  
**cl = clause**  
**div = Division**  
**exp = expires/expired**  
**f = forms**  
**Gaz = Gazette**  
**hdg = heading**  
**ins = inserted**  
**lt = long title**  
**nc = not commenced**

**od = order**  
**om = omitted**  
**pt = Part**  
**r = regulation/rule**  
**rem = remainder**  
**renum = renumbered**  
**rep = repealed**  
**s = section**  
**sch = Schedule**  
**sdiv = Subdivision**  
**SL = Subordinate Legislation**  
**sub = substituted**

**2****LIST OF LEGISLATION*****Unit Titles Ordinance 1975 (Act No. 17, 1976)***

Assent date           23 March 1976  
 Commenced           29 October 1976 (*Gaz* No. 44, 29 October 1976, p 1308)

***Unit Titles Ordinance 1976 (Act No. 46, 1976)***

Assent date           26 August 1976  
 Commenced           26 August 1976

***Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)***

Assent date           1 July 1978  
 Commenced           1 July 1978 (s 8)

***Statute Law Revision Act 1978 (Act No. 95, 1978)***

Assent date           5 September 1978  
 Commenced           5 September 1978

***Statute Law Revision Act (No. 2) 1978 (Act No. 19, 1979)***

Assent date           2 February 1979  
 Commenced           2 February 1979 (s 34)

***Unit Titles Act 1979 (Act No. 56, 1979)***

Assent date           14 May 1979  
 Commenced           3 August 1979 (*Gaz* G31, 3 August 1979, p 4)

***Unit Titles Amendment Act 1981 (Act No. 50, 1981)***

Assent date           1 July 1981  
 Commenced           1 January 1981 (s 2)

***Companies and Securities (Consequential Amendments) Act 1986 (Act No. 18, 1986)***

Assent date           30 June 1986  
 Commenced           1 July 1986 (s 2)



**Unit Titles Amendment Act 1986 (Act No. 24, 1986)**

Assent date 30 June 1986  
 Commenced s 46: 1 July 1986; rem: 23 December 1987 (*Gaz S82*, 23 December 1987)

**Statute Law Revision Act (No. 2) 1987 (Act No. 59, 1987)**

Assent date 31 December 1987  
 Commenced 31 December 1987

**Statute Law Revision Act 1989 (Act No. 60, 1989)**

Assent date 2 October 1989  
 Commenced 2 October 1989

**Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)**

Assent date 14 December 1990  
 Commenced 1 January 1991 (s 2, s 2 *Corporations (NT) Act 1990* (Act No. 56, 1990) and *Gaz S76*, 21 December 1990)

**Unit Titles Amendment Act 1991 (Act No. 10, 1991)**

Assent date 7 March 1991  
 Commenced 10 April 1991 (*Gaz G14*, 10 April 1991, p 5)

**Real Property (Consequential Amendments) Act 1991 (Act No. 33, 1991)**

Assent date 25 June 1991  
 Commenced 1 October 1991 (*Gaz S49*, 1 October 1991)

**Registration (Consequential Amendments) Act 1991 (Act No. 55, 1991)**

Assent date 26 September 1991  
 Commenced 1 January 1992 (s 2, s 2 *Registration Amendment Act 1991* (Act No. 54, 1991) and *Gaz G49*, 11 December 1991, p 4)

**Unit Titles Amendment Act 1993 (Act No. 9, 1993)**

Assent date 31 March 1993  
 Commenced 30 June 1993 (*Gaz G26*, 30 June 1993, p 4)

**Unit Titles Amendment Act (No. 2) 1993 (Act No. 65, 1993)**

Assent date 3 November 1993  
 Commenced 1 December 1993 (*Gaz S95*, 1 December 1993)

**Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)**

Assent date 31 December 1993  
 Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz S35*, 20 May 1994)

**Planning (Consequential Amendments) Act 1993 (Act No. 86, 1993)**

Assent date 31 December 1993  
 Commenced 18 April 1994 (s 2, s 2 *Planning Act 1993* (Act No. 85, 1993) and *Gaz S28*, 18 April 1994)

**Statute Law Revision Act 1994 (Act No. 50, 1994)**

Assent date 20 September 1994  
 Commenced 20 September 1994

**Financial Institutions (Miscellaneous Amendments) Act 1997 (Act No. 23, 1997)**

Assent date 2 June 1997  
 Commenced 2 June 1997

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**Statute Law Revision Act 1998 (Act No. 11, 1998)**

Assent date 30 March 1998  
Commenced 30 March 1998

**Unit Titles Amendment Act 1998 (Act No. 25, 1998)**

Assent date 30 March 1998  
Commenced 6 May 1998 (*Gaz G17*, 6 May 1998, p 2)

**Territory Insurance Office (Miscellaneous Amendments) Act 1998 (Act No. 37, 1998)**

Assent date 27 May 1998  
Commenced 27 May 1998

**Unit Titles Amendment Act 1999 (Act No. 15, 1999)**

Assent date 5 May 1999  
Commenced 9 June 1999 (s 2, s 2 *Real Property Amendment Act 1999* (Act No. 17, 1999) and *Gaz G22*, 9 June 1999, p 5)

**Planning (Consequential Amendments) Act 1999 (Act No. 56, 1999)**

Assent date 14 December 1999  
Commenced 12 April 2000 (s 2, s 2 *Planning Act 1999* (Act No. 55, 1999) and *Gaz S15*, 12 April 1999)

**Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)**

Assent date 12 September 2000  
Commenced 1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz G38*, 27 September 2000, p 2)

**Unit Titles Amendment Act 2001 (Act No. 14, 2001)**

Assent date 28 June 2001  
Commenced 1 March 2002 (*Gaz G8*, 1 March 2002, p 6)

**Amending Legislation****Statute Law Revision Act (No. 2) 2001 (Act No. 62, 2001)**

Assent date 11 December 2001  
Commenced 11 December 2001

**Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)**

Assent date 29 June 2001  
Commenced 15 July 2001 (s 2 and s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz S285*, 13 July 2001)

**Unit Titles Amendment Act 2002 (Act No. 9, 2002)**

Assent date 28 March 2002  
Commenced 1 May 2002 (*Gaz G17*, 1 May 2002, p 3)

**Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)**

Assent date 13 September 2002  
Commenced 30 October 2002 (*Gaz G43*, 3 October 2002, p 3)

**Statute Law Revision Act 2003 (Act No. 12, 2003)**

Assent date 18 March 2003  
Commenced 18 March 2003

**Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)**

Assent date 15 September 2004  
Commenced 27 October 2004 (*Gaz G43*, 27 October 2004, p 3)

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**Justice Legislation Amendment Act (No. 2) 2006 (Act No. 35, 2006)**

Assent date 3 November 2006  
Commenced 3 November 2006

**Land Title and Related Legislation Amendment Act 2008 (Act No. 3, 2008)**

Assent date 11 March 2008  
Commenced pt 6: 18 March 2009 (*Gaz* G11, 13 March 2009, p 4);  
rem: 1 July 2009 (*Gaz* S30, 26 June 2009)

**Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)**

Assent date 14 November 2008  
Commenced 1 July 2008 (s 2)

**Unit Title Schemes Act 2009 (Act No. 14, 2009)**

Assent date 26 May 2009  
Commenced pt 2.3, div 3, sdv 4 and s 135 (to ext ins s 54C) and s 111:  
1 January 2010; rem: 1 July 2009 (s 2, *Gaz* S30,  
26 June 2009, s 2 *Land Title and Related Legislation  
Amendment Act 2008* (Act No. 3, 2008) and *Gaz* S30,  
26 June 2009)

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

s 6 *Unit Titles Amendment Act 2002* (Act No. 9, 2002)

### 4 LIST OF AMENDMENTS

It sub No. 24, 1986, s 4  
ss 1 – 2 amd No. 24, 1986, s 48  
s 3 rep No. 24, 1986, s 5  
s 4 amd No. 24, 1986, ss 6 and 48; No. 60, 1989, s 2(2); No. 10, 1991, s 4;  
No. 33, 1991, s 7; No. 9, 1993, s 4; No. 65, 1993, s 5; No. 86, 1993, s 3;  
No. 56, 1999, s 3; No. 45, 2000, s 11; No. 14, 2001, s 4; No. 35, 2006, s 34;  
No. 3, 2008, s 29; No. 14, 2009, s 164  
ss 5 – 6 amd No. 24, 1986, s 48  
s 7 amd No. 24, 1986, s 48  
sub No. 14, 2009, s 165  
s 8 amd No. 24, 1986, s 48; No. 65, 1993, s 6  
rep No. 14, 2009, s 165  
s 8A ins No. 46, 1976, s 3  
sub No. 56, 1979, s 4; No. 24, 1986, s 7  
rep No. 86, 1993, s 3  
s 9 sub No. 24, 1986, s 8  
amd No. 65, 1993, s 7; No. 14, 2001, s 5  
s 10 amd No. 54, 1978, s 4; No. 50, 1981, s 4; No. 24, 1986, ss 9 and 48; No. 14,  
2001, s 6; No. 3, 2008, s 48  
s 11 amd No. 46, 1976, s 4; No. 24, 1986, s 10; No. 10, 1991, s 5; No. 15, 1999,  
s 3; No. 45, 2000, s 11; No. 3, 2008, s 30  
s 12 amd No. 24, 1986, s 11; No. 65, 1993, s 8  
ss 13 – 14 rep No. 24, 1986, s 12  
s 15 amd No. 46, 1976, s 5; No. 54, 1978, s 4; No. 50, 1981, s 5; No. 24, 1986,  
s 48; No. 3, 2008, s 48  
s 16 amd No. 46, 1976, s 5; No. 54, 1978, s 4; No. 56, 1979, s 5; No. 24, 1986,  
ss 13 and 48; No. 10, 1991, s 6; No. 86, 1993, s 3; No. 56, 1999, s 3; No. 3,  
2008, ss 31 and 48; No. 14, 2009, s 166

## ENDNOTES

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s 17	amd No. 46, 1976, s 7; No. 54, 1978, s 4; No. 50, 1981, s 6; No. 3, 2008, s 48
s 18	amd No. 54, 1978, s 4; No. 3, 2008, s 48
s 19	amd No. 46, 1976, s 8; No. 54, 1978, s 4; No. 3, 2008, s 48
s 20	amd No. 46, 1976, s 9; No. 54, 1978, s 4; No. 24, 1986, ss 14 and 48; No. 10, 1991, s 7; No. 65, 1993, s 9; No. 3, 2008, s 48
s 21	amd No. 54, 1978, s 4; No. 24, 1986, s 48; No. 3, 2008, s 48
pt IIIA hdg	ins No. 24, 1986, s 15
s 21A	ins No. 24, 1986, s 15 amd No. 15, 1999, s 4; No. 45, 2000, s 11; No. 14, 2001, s 7; No. 3, 2008, s 32
s 21B	ins No. 24, 1986, s 15 amd No. 86, 1993, s 3; No. 56, 1999, s 3; No. 14, 2001, s 8; No. 3, 2008, s 48
s 21C	ins No. 24, 1986, s 15
s 21D	ins No. 24, 1986, s 15 amd No. 59, 1987, s 5; No. 10, 1991, s 8; No. 14, 2001, s 9 sub No. 3, 2008, s 33
s 21E	ins No. 24, 1986, s 15 amd No. 33, 1991, s 7; No. 84, 1993, s 6; No. 45, 2000, s 11; No. 28, 2008, s 3
s 21F	ins No. 24, 1986, s 15 amd No. 14, 2001, ss 10 and 27
s 21FA	ins No. 14, 2001, s 11 amd No. 3, 2008, s 48
s 21G	ins No. 24, 1986, s 15 amd No. 33, 1991, s 7; No. 14, 2001, s 12 sub No. 3, 2008, s 34
pt IV hdg	amd No. 35, 2006, s 35
s 22	amd No. 24, 1986, s 16
s 23	amd No. 46, 1976, s 10; No. 24, 1986, ss 17 and 48; No. 33, 1991, s 7; No. 65, 1993, s 10
s 24	amd No. 24, 1986, s 18; No. 65, 1993, s 11; No. 25, 1998, s 3; No. 14, 2001, s 13
s 26	amd No. 24, 1986, s 19; No. 65, 1993, s 12; No. 11, 1998, s 10
pt IVA hdg	ins No. 24, 1986, s 20
pt IVA	
div 1 hdg	ins No. 24, 1986, s 20
s 26A	ins No. 24, 1986, s 20
s 26AA	ins No. 14, 2001, s 14
pt IVA	
div 2 hdg	ins No. 24, 1986, s 20
s 26B	ins No. 24, 1986, s 20 amd No. 86, 1993, s 3; No. 56, 1999, s 3; No. 3, 2008, s 48
s 26C	ins No. 24, 1986, s 20 amd No. 10, 1991, s 9
s 26D	ins No. 24, 1986, s 20
s 26E	ins No. 24, 1986, s 20 amd No. 3, 2008, s 48
s 26F	ins No. 24, 1986, s 20
pt IVA	
div 3 hdg	ins No. 24, 1986, s 20
s 26G	ins No. 24, 1986, s 20 amd No. 86, 1993, s 3; No. 50, 1994, s 16; No. 56, 1999, s 3
s 26H	ins No. 24, 1986, s 20 amd No. 3, 2008, s 35
s 26J	ins No. 24, 1986, s 20 amd No. 86, 1993, s 3; No. 56, 1999, s 3; No. 3, 2008, ss 36 and 48
pt IVA	
div 4 hdg	ins No. 24, 1986, s 20

## ENDNOTES

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ss 26K – 26M	ins No. 24, 1986, s 20
pt IVB hdg	ins No. 65, 1993, s 13
pt IVB	
div 1 hdg	ins No. 65, 1993, s 13
s 26N	ins No. 65, 1993, s 13 amd No. 14, 2001, s 15
s 26P	ins No. 65, 1993, s 13
pt IVB	
div 2 hdg	ins No. 65, 1993, s 13
s 26Q	ins No. 65, 1993, s 13 amd No. 86, 1993, s 3; No. 50, 1994, s 16; No. 56, 1999, s 3; No. 14, 2001, s 16; No. 3, 2008, s 48; No. 14, 2009, s 167
s 26R	ins No. 65, 1993, s 13
s 26S	ins No. 65, 1993, s 13 amd No. 3, 2008, s 37
s 26T	ins No. 65, 1993, s 13 amd No. 3, 2008, s 48
pt IVB	
div 3 hdg	ins No. 65, 1993, s 13
s 26U	ins No. 65, 1993, s 13 amd No. 86, 1993, s 3; No. 56, 1999, s 3 sub No. 3, 2008, s 38
s 26V	ins No. 65, 1993, s 13 amd No. 3, 2008, s 39
s 26W	ins No. 65, 1993, s 13 amd No. 86, 1993, s 3; No. 50, 1994, s 16; No. 56, 1999, s 3; No. 3, 2008, ss 40 and 48
pt IVB	
div 4 hdg	ins No. 65, 1993, s 13
s 26X	ins No. 65, 1993, s 13 amd No. 3, 2008, s 48
ss 26Y –	
26ZC	ins No. 65, 1993, s 13
s 26ZD	ins No. 65, 1993, s 13 amd No. 14, 2001, s 27; No. 9, 2002, s 4
s 26ZE	ins No. 65, 1993, s 13
pt IVC hdg	ins No. 14, 2001, s 17
pt IVC	
div 1 hdg	ins No. 14, 2001, s 17
ss 26ZF –	
26ZH	ins No. 14, 2001, s 17
pt IVC	
div 2 hdg	ins No. 14, 2001, s 17
s 26ZI	ins No. 14, 2001, s 17 amd No. 35, 2006, s 36; No. 3, 2008, ss 41 and 48; No. 14, 2009, s 168
ss 26ZJ –	
26ZK	ins No. 14, 2001, s 17
s 26ZL	ins No. 14, 2001, s 17 amd No. 3, 2008, s 48
pt IVC	
div 3 hdg	ins No. 14, 2001, s 17
s 26ZM	ins No. 14, 2001, s 17 amd No. 35, 2006, s 37
ss 26ZN –	
26ZO	ins No. 14, 2001, s 17
pt IVC	
div 4 hdg	ins No. 14, 2001, s 17

## ENDNOTES

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ss 26ZP –	
26ZR	ins No. 14, 2001, s 17
s 26ZS	ins No. 14, 2001, s 17 amd No. 35, 2006, s 38
s 26ZT	ins No. 14, 2001, s 17
pt IVC	
div 5 hdg	ins No. 14, 2001, s 17
s 26ZU	ins No. 14, 2001, s 17 amd No. 35, 2006, s 39
ss 26ZV –	
26ZZ	ins No. 14, 2001, s 17
s 26ZZA	ins No. 14, 2001, s 17 amd No. 9, 2002, s 5
s 26ZZB	ins No. 14, 2001, s 17
s 27A	ins No. 3, 2008, s 42
s 27	sub No. 24, 1986, s 21 amd No. 65, 1993, s 14; No. 35, 2006, s 40
s 28	rep No. 24, 1986, s 21 ins No. 14, 2001, s 18 amd No. 35, 2006, s 41
s 29	amd No. 24, 1986, s 48 sub No. 3, 2008, s 43
s 30	amd No. 24, 1986, s 22
s 30A	ins No. 24, 1986, s 23 amd No. 3, 2008, s 44
s 31	amd No. 18, 1986, s 3; No. 24, 1986, s 48; No. 59, 1990, s 4 sub No. 17, 2001, s 19
s 32	amd No. 24, 1986, s 48
s 33	amd No. 24, 1986, s 48; No. 65, 1993, s 15
s 34	amd No. 65, 1993, s 16
s 35	amd No. 46, 1976, s 11; No. 24, 1986, s 48; No. 23, 1997, s 6; No. 37, 1998, s 4; No. 38, 2002, s 6
s 36	amd No. 24, 1986, ss 24 and 48; No. 14, 2001, s 19
s 36A	ins No. 24, 1986, s 25 amd No. 65, 1993, s 17
s 37	amd No. 24, 1986, s 26; No. 14, 2001, s 27
s 39	amd No. 24, 1986, s 27; No. 14, 2001, s 27
s 40	amd No. 14, 2009, s 169
s 42	amd No. 24, 1986, s 28; No. 14, 2009, s 170
s 42A	ins No. 24, 1986, s 29 amd No. 33, 1991, s 7; No. 45, 2000, s 11; No. 14, 2009, s 171
s 42B	ins No. 25, 1998, s 4 amd No. 14, 2001, s 20; No. 14, 2009, s 172
s 44	amd No. 65, 1993, s 18; No. 25, 1998, s 5
ss 45 – 47	amd No. 24, 1986, s 48
s 47A	ins No. 24, 1986, s 30
s 48	amd No. 65, 1993, s 19 rep No. 3, 2008, s 45
s 49	amd No. 24, 1986, s 31 rep No. 3, 2008, s 45
s 49A	ins No. 24, 1986, s 32 rep No. 3, 2008, s 45
s 50	amd No. 24, 1986, s 33 rep No. 3, 2008, s 45
s 51	sub No. 24, 1986, s 34 amd No. 14, 2001, s 27
s 52	sub No. 24, 1986, s 34 rep No. 3, 2008, s 45

## ENDNOTES

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s 53	sub No. 24, 1986, s 34 amd No. 9, 1993, s 5; No. 84, 1993, s 6; No. 28, 2008, s 3
s 53A	ins No. 24, 1986, s 34 rep No. 3, 2008, s 45
s 54	rep No. 3, 2008, s 45
s 55	amd No. 24, 1986, s 35; No. 65, 1993, s 20 rep No. 3, 2008, s 45
s 56	amd No. 24, 1986, s 36; No. 14, 2001, s 27 rep No. 3, 2008, s 45
pt V	
div 4 hdg	sub No. 3, 2008, s 46
s 58	sub No. 3, 2008, s 46
s 59	sub No. 24, 1986, s 37 amd No. 65, 1993, s 21; No. 14, 2001, s 27; No. 35, 2006, s 42 rep No. 3, 2008, s 46
s 59A	ins No. 24, 1986, s 37 amd No. 65, 1993, s 22 rep No. 3, 2008, s 46
s 60	rep No. 3, 2008, s 46
s 61	amd No. 65, 1993, s 23 rep No. 3, 2008, s 46
ss 62 – 63	rep No. 3, 2008, s 46
pt V	
div 5 hdg	rep No. 3, 2008, s 46
ss 64 – 66	rep No. 3, 2008, s 46
s 67	amd No. 24, 1986, s 38 rep No. 3, 2008, s 46
ss 68 – 69	rep No. 3, 2008, s 46
s 70	amd No. 24, 1986, s 39 rep No. 3, 2008, s 46
ss 71 – 74	rep No. 3, 2008, s 46
s 75	amd No. 24, 1986, s 48 rep No. 3, 2008, s 46
s 76	amd No. 54, 2004, s 7
s 78	amd No. 24, 1986, s 48; No. 54, 2004, s 7
s 78A	ins No. 24, 1986, s 40 amd No. 14, 2001, s 27
pt VA hdg	ins No. 24, 1986, s 41
s 79A	ins No. 24, 1986, s 41 amd No. 25, 1998, s 6
s 80A	ins No. 65, 1993, s 24 amd No. 14, 2001, s 21
s 80	amd No. 19, 1979, s 30; No. 24, 1986, s 42
s 81	amd No. 46, 1976, s 12
s 89	amd No. 24, 1986, s 48
s 89A	ins No. 14, 2001, s 22
s 93	amd No. 24, 1986, s 48
s 94A	ins No. 14, 2001, s 23
s 94AA	ins No. 14, 2009, s 173
s 95A	ins No. 24, 1986, s 43 amd No. 55, 1991, s 8
ss 96 – 97	amd No. 24, 1986, s 48
s 101	amd No. 54, 1978, s 4
s 103	amd No. 24, 1986, s 44; No. 14, 2001, ss 24 and 27
s 104	amd No. 19, 1979, s 30; No. 14, 2001, s 25
s 104A	ins No. 24, 1986, s 45
s 106	am No. 24, 1986, s 48 sub No. 9, 1993, s 6

## ENDNOTES

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s 107	amd No. 24, 1986, s 48
s 108	amd No. 46, 1976, s 14; No. 19, 1979, s 30; No. 24, 1986, ss 46 and 48; No. 14, 2001, s 26
s 109	amd No. 24, 1986, s 48; No. 55, 1991, s 8; No. 12, 2003, s 12
s 110	amd No. 95, 1978, ss 7 and 14; No. 24, 1986, s 48
pt X hdg	ins No. 35, 2006, s 43
s 111	ins No. 35, 2006, s 43
pt XI hdg	ins No. 3, 2008, s 47
s 112	ins No. 3, 2008, s 47 amd No. 14, 2009, s 174
pt XII hdg	ins No. 14, 2009, s 175
ss 113 – 115	ins No. 14, 2009, s 175
sch 1	amd No. 24, 1986, s 47; No. 65, 1993, s 25; No. 25, 1998, s 7; No. 14, 2009, s 176
sch 2	ins No. 65, 1993, s 25