

NORTHERN TERRITORY OF AUSTRALIA

**UNIT TITLE SCHEMES (GENERAL PROVISIONS AND TRANSITIONAL
MATTERS) REGULATIONS 2009**

As in force at 18 May 2011

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Regulations under the *Unit Title Schemes Act 2009*

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Unit Title Schemes (General Provisions and Transitional Matters) Regulations 2009*.

2 Commencement

These Regulations commence on the commencement of section 108 of the *Unit Title Schemes Act 2009*.

Part 2 Key elements of scheme

3 Changes to scheme statement

- (1) For section 12(2) of the Act, a scheme statement may be changed otherwise than by a subsequent scheme statement if:
 - (a) the change relates to information mentioned in section 18(1)(f) of the Act and regulation 4(3) because the scheme becomes a higher scheme when all or part of the scheme land comprising one of its units is subdivided to form the scheme land of a new scheme; and
 - (b) the Registrar-General, on the application of a person responsible for preparing a scheme statement under section 20 of the Act:
 - (i) endorses the change; and
 - (ii) records the change in the land register as defined in section 4 of the *Land Title Act 2000*.

- (2) On the endorsement and recording of the change, the scheme statement has effect as if the change had been made with effect from the time of the endorsement.

4 Requirements about scheme statement

- (1) For section 18(1)(e) of the Act, a scheme statement for a scheme intended to be developed progressively must contain the following information:
- (a) if the developer proposes to implement a stage of the development in accordance with a schedule of commencement and completion dates – that schedule;
 - (b) if the developer proposes to create additional units and common property in implementing a stage of the development (including units and common property of another scheme):
 - (i) a description of the proposed units and common property; and
 - (ii) the proposed entitlement schedules for the units;
 - (c) if the developer proposes to carry out construction works for a stage of the development:
 - (i) a location plan for the proposed stage; and
 - (ii) a description of the uses that can be made of the construction zones and access zones shown in the plan; and
 - (iii) a schedule of working hours for the construction works;
 - (d) if the developer proposes to use all or a part of the scheme land for particular purposes for a stage of the development – a description of those purposes;
 - (e) if the developer proposes to sell a unit as ready for occupation for a proposed stage of the development – a schedule of materials and finishes for the unit;
 - (f) if the developer proposes to create special rights or limitations over common property or body corporate assets for a stage of the development – a statement of the rights or limitations;

- (g) if any of paragraphs (a) to (f) applies – any other information reasonably required to examine the scheme statement to ascertain:
 - (i) the overall nature of the facilities proposed for the development; and
 - (ii) the rights and obligations of the body corporate and unit owners during and after the completion of the development;
- (h) if none of paragraphs (a) to (f) applies:
 - (i) a statement specifying broad concepts in relation to the development; and
 - (ii) a statement that the developer has no specific proposal in relation to implementing a stage of the development.
- (2) To avoid doubt, a developer may propose to do a thing as mentioned in subregulation (1)(a) to (f) without entering into a binding agreement in relation to that thing.
- (3) For section 18(1)(f) of the Act, a scheme statement for a higher scheme or subsidiary scheme must identify each of the scheme's higher schemes and subsidiary schemes.
- (4) For section 18(3)(c)(i) of the Act, the endorsement of the consent authority relates to the following matters:
 - (a) the matters mentioned in section 18(1)(a) to (c) and (e) to (f) of the Act;
 - (b) any exclusive use by-laws of the scheme.
- (5) In this regulation:

location plan, for a stage of a development, means a plan showing:

 - (a) the construction zones, access zones, roads and common property relating to the stage; and
 - (b) the dimensions and areas of the proposed units relating to the stage as worked out by a licensed surveyor.

5 Obligation of seller – disclosure statement information

- (1) For section 45(2)(b) of the Act, the disclosure statement must contain the following information:
 - (a) if the developer has entered into an arrangement to engage a body corporate manager or service contractor:
 - (i) the name of the body corporate manager or service contractor; and
 - (ii) the nature of the arrangement; and
 - (iii) the period the arrangement is to be in force; and
 - (iv) the rights and obligations of the body corporate manager or service contractor; and
 - (v) details about any service fees payable to the body corporate manager or service contractor under the arrangement;
 - (b) if the developer proposes to enter into an arrangement to engage a body corporate manager or service contractor – any proposal relating to the matters mentioned in paragraph (a).
- (2) For section 45(2)(c) of the Act, the disclosure statement must contain the following information:
 - (a) if the developer has authorised a person to be a letting agent:
 - (i) the name of the letting agent; and
 - (ii) the period the authorisation is to be in force; and
 - (iii) the rights and obligations of the letting agent; and
 - (iv) details about any service fees payable to the letting agent;
 - (b) if the developer proposes to authorise a person to be a letting agent – any proposal relating to the matters mentioned in paragraph (a).
- (3) For section 45(2)(d) of the Act, the disclosure statement must contain the following information:
 - (a) a complete list of the existing body corporate assets and any proposed body corporate assets;
 - (b) any limitation or proposed limitation on the use of the assets.

- (4) For section 45(2)(h) of the Act, if the management module of the scheme provides for a method of adjudicating disputes arising from the disclosure statement, the statement must specify the method.

Part 3 Scheme administration

6 Approval and registration of modified management module

- (1) The scheme supervisor may:
- (a) on the application of a person intending to register the first scheme statement of a scheme – approve changes to the management module that would otherwise apply to the scheme (the **applying module**); and
 - (b) on the application of the body corporate of a scheme – approve changes to the management module currently applying to the scheme (the **applying module**).

Note for subregulation (1)

The Unit Title Schemes (Management Modules) Regulations 2009 prescribe management modules that apply to various schemes.

- (2) The application must be made in the approved form.
- (3) Without limiting what may be required by the approved form, the application must be accompanied by the following:
- (a) a document setting out the changes;
 - (b) a document setting out the applying module incorporating the changes.
- (4) The fee payable for the application is 120 revenue units.
- (5) The scheme supervisor may approve changes to the applying module only if satisfied the applying module incorporating the changes (the **modified module**):
- (a) adequately deals with all the matters covered by the applying module; and
 - (b) is fair and equitable.
- (6) The scheme supervisor must tell the Registrar-General about the approval.

- (7) The modified module applies to the scheme only if:
- (a) the modified module is registered under subregulation (8); and
 - (b) if subregulation (1)(a) applies to the approval – the registration is made before or when the first scheme statement of the scheme is registered.
- (8) The Registrar-General must, on the application of a person who has been given approval for a modified module under subregulation (1), register the modified module.
- (9) However, the Registrar-General must not do so if:
- (a) subregulation (1)(a) applies to the approval; and
 - (b) the first scheme statement of the scheme has been registered.
- (10) The Registrar-General may register a modified module in a way decided by the Registrar-General.

Part 4 Transitional matters

Division 1 Conversion of units plan or building development plan into scheme

6A Lodgement of scheme statement by corporation

- (1) For section 111(1) of the Act, a corporation of a units plan or building development plan may lodge a scheme statement if the following requirements are met:
- (a) it is authorised to do so by unanimous resolution of its members;
 - (b) if it is a corporation of a units plan for an estate development or of a building development plan – each corporation (**connected corporation**) connected to that plan simultaneously lodges a scheme statement for the conversion of the units plan or building development plan in relation to which the connected corporation was constituted;
 - (c) if it is a corporation connected to a units plan for an estate development or to a building development plan (each a **relevant plan**) – each of the following corporations (each a **group corporation**) simultaneously lodges a scheme statement for the conversion of the units plan or building development plan in relation to which the group corporation was constituted:

- (i) the corporation of the relevant plan;
 - (ii) each other corporation connected to the relevant plan.
- (2) For subregulation (1):
 - (a) a corporation is connected to a units plan for an estate development if the corporation was constituted because of a subdivision of a part of the parcel to which the units plan relates; and
 - (b) a corporation is connected to a building development plan if the corporation was constituted because of a subdivision of a part of the parcel to which the building development plan relates.
- (3) For section 20(1)(f) of the Act, the corporation of a units plan or building development plan is responsible for preparing the scheme statement for the conversion of the units plan or building development plan.
- (4) In this regulation:

unanimous resolution, see section 7(4) of the *Unit Titles Act 2009*.

6B Content of scheme statement

- (1) A scheme statement lodged by the corporation of a units plan or building development plan must:
 - (a) comply with the requirements of the Act, other than the requirements mentioned in section 18(1)(a) and (3)(b) and (c) of the Act; and
 - (b) contain a description of the scheme land by reference to a plan of subdivision that shows the units and common property of the scheme; and
 - (c) be accompanied by:
 - (i) the plan of subdivision mentioned in paragraph (b); and
 - (ii) a certificate given by a licensed surveyor certifying that the boundaries of the units, or building lots, and common property shown in the units plan or building development plan are as shown in the plan of subdivision.

- (2) For section 18(1)(d) of the Act, the contribution entitlement and interest entitlement of a unit as specified in the entitlement schedules must be:
- (a) the same as the unit entitlement under the *Unit Titles Act 2009* for the corresponding unit in the units plan or building lot in the building development plan; or
 - (b) if a different contribution entitlement or interest entitlement has been approved by unanimous resolution of the members of the corporation – the approved entitlement.
- (3) In this regulation:

unanimous resolution, see section 7(4) of the *Unit Titles Act 2009*.

6C Effect of registration of scheme statement

For section 111(2) of the Act, if the Registrar-General registers a scheme statement lodged by the corporation of a units plan or building development plan:

- (a) the corporation has effect as the body corporate of the scheme; and
- (b) each unit to which the units plan, or building lot to which the building development plan, relates (the **original unit**) has effect as a unit of the scheme (the **converted unit**); and
- (c) each right or interest in the original unit existing immediately before the registration has effect as a right or interest in the converted unit; and
- (d) the common property to which the units plan or building development plan relates has effect as the common property of the scheme; and
- (e) the body corporate becomes the owner of the common property of the scheme; and
- (f) each right or interest in the common property existing immediately before the registration has effect as a right or interest in the common property of the scheme.

Division 2 Formation of scheme from pre-commencement development

7 Prescribed land

Section 112 of the Act applies to the land:

- (a) for which development permit number 05/0547 is in force immediately before the commencement of Chapter 4, Part 4.3 of the Act; and
- (b) in relation to which the following requirements are met:
 - (i) the developer lodges a scheme statement complying with section 18 of the Act;
 - (ii) the consent authority decides that the proposed units and common property are suitable for separate titles.

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 Title Schemes (General Provisions and Transitional Matters) Regulations (SL No. 18, 2009)***

Notified	26 June 2009
Commenced	1 July 2009 (r 2, s 2 <i>Unit Titles Schemes Act 2009</i> (Act No. 14, 2009) and Gaz S30, 26 June 2009)

Unit Title Schemes and Related Legislation Amendment Regulations 2011 (SL No. 14, 2011)

Notified	18 May 2011
Commenced	18 May 2011

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr 1, 3, 6, 6A and 6B.

4 LIST OF AMENDMENTS

pt 4	
div 1 hdg	ins No. 14, 2011, r 3
rr 6A – 6C	ins No. 14, 2011, r 3
pt 4	
div 2 hdg	ins No. 14, 2011, r 4
r 7	amd No. 14, 2011, r 5