

NORTHERN TERRITORY OF AUSTRALIA

UNIT TITLES AMENDMENT ACT 1993

No. 9 of 1993

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NORTHERN TERRITORY OF AUSTRALIA

No. 9 of 1993

AN ACT

to amend the *Unit Titles Act*

[Assented to 31 March 1993]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Unit Titles Amendment Act 1993*.

2. COMMENCEMENT

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

3. PRINCIPAL ACT

The *Unit Titles Act* is in this Act referred to as the Principal Act.

4. OTHER DEFINITIONS

Section 4(1) of the Principal Act is amended by omitting from the definition of "the Court" the words "Supreme Court" and substituting "Local Court".

5. STATUTORY RESTRICTIONS ON POWERS OF COMMITTEE

Section 53 of the Principal Act is amended by inserting after subsection (1) the following:

"(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

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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 municipal council."

6. REPEAL AND SUBSTITUTION

Section 106 of the Principal Act is repealed and the following substituted:

"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.

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"(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.

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"(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."
