

NORTHERN TERRITORY OF AUSTRALIA
SALE OF LAND (RIGHTS AND DUTIES OF PARTIES) REGULATIONS

Subordinate Legislation No. 30 of 2011

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Subordinate Legislation No. 30 of 2011*

Sale of Land (Rights and Duties of Parties) Regulations

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Sale of Land (Rights and Duties of Parties) Act*.

Dated 18 July 2011

T. I. PAULING
Administrator

By His Honour's Command

C. B. BURNS
Minister for Business and Employment
acting for
Minister for Justice and Attorney-General

* Notified in the *Northern Territory Government Gazette* on 27 July 2011.

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Sale of Land (Rights and Duties of Parties) Regulations*.

2 Commencement

These Regulations commence on the commencement of the *Sale of Land (Rights and Duties of Parties) Act 2010*.

Part 2 Interpretation

3 Definitions

In these Regulations:

Building Act order, notice or report means:

- (a) an emergency order made under section 100 of the *Building Act*; or
- (b) a building notice, building order or fire upgrading report as defined in that Act.

building status report, for a building, means:

- (a) a report by a qualified person stating:
 - (i) the extent to which the building complies with Parts 6 and 8 of the *Building Act*; or
 - (ii) it is not possible to establish whether the building complies with those Parts; or
 - (iii) it is not possible to establish whether any of those Parts apply to the building; or
- (b) a declaration by the seller stating those Parts do not apply to the building.

Note

See section 6(2) of the *Building Act* for the declaration of areas to which Parts 6 and 8 of the *Building Act* apply.

competent person means:

- (a) for a certificate for a unit under the *Unit Titles Act*:
 - (i) the secretary of the committee of the corporation for the unit; or
 - (ii) a licensed real estate agent under the *Agents Licensing Act* who, under section 5(1) of that Act, is a corporation manager under the *Unit Titles Act* of the corporation for the unit; or
- (b) for a certificate for a unit of a scheme under the *Unit Titles Schemes Act*:
 - (i) the secretary of the committee of the body corporate for the scheme; or
 - (ii) a licensed real estate agent under the *Agents Licensing Act* who, under section 5(1) of that Act, is a body corporate manager under the *Unit Titles Schemes Act* for the unit's scheme.

qualified person means:

- (a) a person who is registered in one of the following categories of building practitioner under Part 3 of the *Building Act*:
 - (i) building certifier;
 - (ii) certifying engineer;
 - (iii) building contractor; or
- (b) a person who has equivalent registration (however described) under an Act of a State or another Territory; or
- (c) a person whose registration under an Act mentioned in paragraph (a) or (b) has ceased other than because of disciplinary action.

Part 3 Exclusion of land from application of Act

4 Excluded land – section 7(3) of Act

The Act does not apply to the following land:

- (a) land that is subject to a Crown lease containing a purpose clause requiring development of the land;

- (b) land that is subject to a lease granted by the Land Development Corporation containing a condition requiring development of the land;
- (c) land over which a lease is in force under the *Mining Act*;
- (d) a landlord's interest under a registered lease.

Part 4 Disclosure documents

5 Required report

- (1) For section 4(1)(f) of the Act, a building status report is a required report for an existing building on land.
- (2) However, a building status report is not required if the seller makes available for inspection with the disclosure documents a notice in the approved form warning the buyer a building status report is not provided.
- (3) In addition, a building status report is not required for a wharf or pylon used to moor a vessel.

6 Required certificates

For section 4(1)(g) of the Act, the following are required certificates for land:

- (a) a certificate of the Registrar-General about information kept under section 38 of the *Land Title Act* for the land;
- (b) if an occupancy permit or approval to occupy on a temporary basis has been granted under the *Building Act* for a building on the land:
 - (i) a copy of the permit or approval; or
 - (ii) if the permit or approval is not available from the Agency administering the *Building Act* – a declaration by a qualified person or the seller to that effect;
- (c) if, under the *Swimming Pool Safety Act* a compliance certificate, provisional compliance certificate, acknowledgment notice, provisional acknowledgment notice or temporary acknowledgment notice has been issued for a swimming pool on the land – a copy of the certificate or notice;

- (d) for a unit under the *Unit Titles Act* – a certificate issued by a competent person about whether or not, under that Act, the corporation for the unit has decided to do any of the following:
 - (i) alter the units plan or articles of the corporation constituted for the unit under the *Unit Titles Act*;
 - (ii) raise a special levy that will be payable by the owner of the unit;
 - (iii) grant or revoke any authority relating to the use of any unit or common property that may have a detrimental effect on the buyer's use and enjoyment of the unit and common property;
- (e) for a unit of a scheme under the *Unit Titles Schemes Act* – a certificate issued by a competent person about whether or not, under that Act, the body corporate for the scheme has decided to do any of the following:
 - (i) change the scheme statement for the scheme;
 - (ii) raise a special levy that will be payable by the owner of the unit;
 - (iii) grant or revoke any authority relating to the use of any unit or common property that may have a detrimental effect on the buyer's use and enjoyment of the unit and common property.

7 Other required documents

For section 4(1)(h) of the Act, the following documents are required for land:

- (a) a declaration by the seller stating the following information known to the seller about the land:
 - (i) whether the land is polluted by a contaminant, or waste, as defined in the *Waste Management and Pollution Control Act*;
 - (ii) whether the land is subject to a drug premises order under the *Misuse of Drugs Act*;
 - (iii) whether the land has previously been flooded or subject to seepage or is in a storm tide hazard area;
 - (iv) whether an encroachment as defined in the *Encroachment of Buildings Act* extends over the land;

- (b) if rates are imposed on the land – a copy of the latest rates notice:
 - (i) for land in a local government area – issued by the council for the area; or
 - (ii) for land in the Darwin Waterfront Precinct under the *Darwin Waterfront Corporation Act* – issued by or for the Darwin Waterfront Corporation; or
 - (iii) for land in the prescribed area under the *Darwin Rates Act* – served by the minister administering that Act;
- (c) if a building on the land is affected by a Building Act order, notice or report – a copy of the document.

8 Validity period for documents

Each of the following documents remains valid for use as a disclosure document for 6 months after it is created for the Act:

- (a) a building status report;
- (b) a required certificate mentioned in regulation 6(a), (d) or (e);
- (c) a declaration mentioned in regulation 7(a).