

REAL PROPERTY (UNIT TITLES)

No. 32 of 1970

An Ordinance to provide for the Registration of Unit Titles and for other purposes.

PART I.—PRELIMINARY.

- Short title.** 1. This Ordinance may be cited as the *Real Property (Unit Titles) Ordinance 1970*.*
- Commencement.** 2. This Ordinance shall come into operation on a date to be fixed by the Minister of State for the Interior by notice published in the *Gazette*.†
- Administration.** 3. This Ordinance shall be administered by the Attorney-General.
- Parts.** 4. This Ordinance is divided into Parts, as follows:—
 Part I.—Preliminary (Sections 1-7).
 Part II.—Registration of Units Plans (Sections 8-11).
 Part III.—Cancellation and Alteration of Units Plans (Sections 12-17).
 Part IV.—Determination and Expiry of Leases (Sections 18-20).
 Part V.—Miscellaneous (Sections 21-28).
- Interpretation.** 5.—(1.) In this Ordinance, “the Principal Ordinance” means the *Real Property Ordinance 1925-1970*.
 (2.) Where an expression used in this Ordinance is defined in the *Unit Titles Ordinance 1970*, that expression as so used has the same meaning as in that Ordinance.
 (3.) A reference in this Ordinance to a form by number shall be read as a reference to the form so numbered in the First Schedule to this Ordinance.
- Incorporation with the Real Property Ordinance 1925-1970.** 6.—(1.) This Ordinance is incorporated and shall be read as one with the Principal Ordinance.

* Made and notified in the *Commonwealth Gazette* on 11 September 1970.

† The date fixed was 1 February 1971; see *Commonwealth Gazette* 1971, p. 788.

(2.) A units plan and every other document or instrument lodged with the Registrar under this Ordinance shall, for the purposes of the Principal Ordinance, be deemed to be an instrument affecting land.

(3.) Paragraph (a) of sub-section (1A.) of section 48 of the Principal Ordinance does not apply to or in relation to a units plan or any other document or instrument lodged with the Registrar under this Ordinance.

(4.) Sub-section (1B.) of section 48, and section 67, of the Principal Ordinance do not apply to or in relation to a units plan or any copy of a Court order lodged with the Registrar under this Ordinance.

7. For the purposes of the Principal Ordinance and of this Ordinance—

When units plan and other instruments deemed to be registered.

- (a) a units plan shall be deemed to be registered when the Registrar has endorsed on it the date and time of registration and the number allotted to it; and
- (b) every document or instrument (other than a units plan) lodged with the Registrar under this Ordinance shall be deemed to be registered when a memorial relating to the document or instrument is endorsed on or annexed to the units plan.

PART II.—REGISTRATION OF UNITS PLANS.

8. A units plan shall be in accordance with Forms 1, 2, 3, 4 and 5, or such of those forms as are applicable in the circumstances of the case, and with the requirements set out in the Second Schedule to this Ordinance.

Formal requirements.

9.—(1.) The Registrar shall, on the lodgment with him within the period referred to in section 23 of the *Unit Titles Ordinance* 1970 of—

Registration of units plan.

- (a) an application in accordance with Form 6;
- (b) three copies of the units plan complying with the last preceding section and endorsed by the Minister under section 22 of that Ordinance;
- (c) the duplicate lease of, or the duplicate certificate of title for, the relevant parcel;
- (d) the written consent, in accordance with Form 7, to the registration of the units plan of every person having a registered estate or interest in the lease of the parcel; and
- (e) the duplicate copy of every instrument evidencing or creating such an estate or interest,

register the units plan.

(2.) On the registration of the units plan, the Registrar shall deliver one copy to the applicant and one copy to the Secretary to the Department of the Interior.

Effect of registration of units plan on interests in parcel.

10.—(1.) If, immediately before the registration of a units plan, a person was the registered proprietor of a mortgage of the lease of the parcel, he shall be deemed to be, on the registration of the units plan, the registered proprietor of a mortgage of the lease of each unit, as if—

- (a) on the date on which the memorandum creating the first-mentioned mortgage was executed, the mortgagor had been the lessee of all the units and that memorandum had been executed by him accordingly; and
- (b) the first-mentioned mortgage had been a mortgage of all the leases of the units and not of the lease of the parcel.

(2.) If, immediately before the registration of a units plan, a person was the registered proprietor of an easement over portion of the parcel, he shall be deemed to be, on the registration of the units plan, the registered proprietor of an easement over so much of the land comprised in the common property and each unit as was affected by the first-mentioned easement, as if—

- (a) on the date on which the memorandum creating the first-mentioned easement was executed, the lessee of the parcel on that date had been the lessee of the common property and the unit or units, as the case may be, and that memorandum had been executed by him accordingly; and
- (b) the first-mentioned easement had been an easement over the common property or the unit or units, as the case may be, and not over that portion of the parcel.

(3.) On and after the registration of a units plan, the memorandum of mortgage referred to in sub-section (1.) of this section and the memorandum of easement referred to in the last preceding sub-section and any instrument or other document relating to the lease of the parcel or to that mortgage or easement shall be deemed to be modified in such manner as is necessary to give effect to the last two preceding sub-sections.

Duties of Registrar after registration of units plan.

11. Immediately after the registration of a units plan, the Registrar shall—

- (a) cancel the lease of, or certificate of title for, the parcel and the duplicate of that lease or certificate;
- (b) issue, in accordance with Form 8, a certificate of title for each unit to the person who, by force of paragraph (b) of sub-section (1.) of section 25 of the *Unit Titles Ordinance 1970*, is the lessee of the unit;

- (c) issue to the relevant corporation a certificate of title for the common property in accordance with Form 9;
- (d) enter on each certificate of title so issued a memorial of any mortgage or easement to which, by force of the last preceding section, the lease is subject and, if it is subject to two or more mortgages or easements, enter the memorials in such manner as to preserve their priority; and
- (e) enter on the registered instrument evidencing or creating such a mortgage or easement and on its duplicate copy a memorial that it has effect in accordance with the last preceding section.

PART III.—CANCELLATION AND ALTERATION OF UNITS PLANS.

12. On the lodgment with the Registrar of an office copy of a final order made by the Court under section 97 of the *Unit Titles Ordinance* 1970 for the cancellation of a units plan, the Registrar shall register the order.

Registration of order for cancellation of units plan.

13.—(1.) If, immediately before the registration of an order for the cancellation of a units plan, a person was the registered proprietor of a mortgage of the lease of a unit, that person shall be deemed to be, on the registration of the order, the registered proprietor of a mortgage of the share in the estate, or a mortgage of the whole estate, as the case may be (which share or estate is in this sub-section called “the interest”) vested by paragraph (d) of sub-section (1.) of section 98 of the *Unit Titles Ordinance* 1970 in the person who was the lessee of the unit as if—

Effect of cancellation of units plan on interests in leases.

- (a) on the date on which the memorandum creating the first-mentioned mortgage was executed, the mortgagor had been the registered proprietor of the interest so vested and that memorandum had been executed by him accordingly; and
- (b) the first-mentioned mortgage had been a mortgage of the interest so vested and not of the lease of the unit.

(2.) If, immediately before the registration of an order for the cancellation of a units plan, a person was the registered proprietor of an easement over portion of the common property or of a unit or units, he shall be deemed to be, on the registration of the order, the registered proprietor of an easement over so much of the land comprised in the units plan as was affected by the first-mentioned easement, as if—

- (a) on the date on which the memorandum creating the first-mentioned easement was executed, the lessee of the common property and the lessee or lessees of that unit or units had been the registered proprietors or proprietor of the estate referred to in paragraph (d) of sub-section (1.) of

section 98 of the *Unit Titles Ordinance* 1970, and that memorandum had been executed by them or him accordingly; and

- (b) the first-mentioned easement had been an easement over that land and not over that portion of the common property or of the unit or units.

(3.) On and after the registration of the order for the cancellation of the units plan, the memorandum of mortgage referred to in sub-section (1.) of this section and the memorandum of easement referred to in the last preceding sub-section and any instrument or other document relating to the lease of the relevant unit or units or of the common property or to that mortgage or easement shall be deemed to be modified in such manner as is necessary to give effect to the last two preceding sub-sections.

Duties of Registrar upon registration of order.

14.—(1.) Immediately after the registration of an order for the cancellation of a units plan, the Registrar shall—

- (a) cancel the units plan;
- (b) cancel the certificate of title for each unit and for the common property;
- (c) subject to the next succeeding sub-section, issue to the person in whom a share in the estate, or the whole estate, as the case may be, is vested by paragraph (d) of sub-section (1.) of section 98 of the *Unit Titles Ordinance* 1970 a certificate of title for that share or estate; and
- (d) enter on each certificate of title so issued a memorial of any mortgage or easement to which, by force of the last preceding section, the lease is subject and, if it is subject to two or more mortgages or easements, enter the memorials in such manner as to preserve their priority; and
- (e) enter on the registered instrument evidencing or creating such a mortgage or easement and on its duplicate copy a memorial that it has effect in accordance with the last preceding section.

(2.) The Registrar may, in his discretion, refuse to issue a certificate of title under paragraph (c) of the last preceding sub-section to the person who was the lessee of a unit until the duplicate copy of the certificate of title for that unit has been lodged with the Registrar.

(3.) The last preceding sub-section does not prevent the issue of a certificate of title in a case where the Registrar has dispensed with, or has been ordered by the Court to dispense with, the lodgment of the document referred to in that sub-section.

(4.) The Registrar shall cancel a certificate of title lodged with him under sub-section (2.) of this section.

15. On the lodgment with the Registrar of an office copy of an order made by the Court under section 101 of the *Unit Titles Ordinance* 1970 for the alteration of a units plan, together with a copy of the schedule of unit entitlement altered in accordance with the order, the Registrar shall register those documents.

Registration of order for alteration of units plan.

16. Immediately after the registration of an order for the alteration of a units plan, the Registrar shall—

Duties of Registrar on registration of order for alteration of units plan.

- (a) cancel the certificate of title and the duplicate certificate of title for the unit the lease of which has been determined; and
- (b) enter on the units plan such memorials as are necessary to give effect to the order.

17. Immediately after the registration of an order for the cancellation or alteration of a units plan, the Registrar shall give written notice of the registration of the order to the Secretary to the Department of the Interior.

Registrar to give notice of cancellation or alteration of units plan.

PART IV.—DETERMINATION AND EXPIRY OF LEASES.

18.—(1.) The Registrar, upon proof to his satisfaction of the determination of the lease of a unit, shall—

Registration of determination of lease.

- (a) cancel the certificate of title for the unit;
- (b) enter on the relevant units plan a memorial of the determination; and
- (c) enter on the schedule of unit entitlement a memorial stating that it has effect in accordance with section 109 of the *Unit Titles Ordinance* 1970.

(2.) The determination does not release the lessee from any liability in respect of the breach of any covenant expressed or implied in the lease.

19. On receipt of a notice given under section 110 of the *Unit Titles Ordinance* 1970, the Registrar shall register the notice and—

Cancellation of memorials made under section 18.

- (a) enter on the units plan and the schedule of unit entitlement further memorials cancelling the memorials entered under the last preceding section; and
- (b) issue to the person named in the notice a certificate of title for the unit.

20. Upon the expiry of the terms of the leases of the units and the lease of the common property, the Registrar shall cancel the units plan and the certificates of title and duplicate certificates of title for the units and the common property.

Registrar to enter expiry of lease in Register Book.

PART V.—MISCELLANEOUS.

Change of address for service of documents.

21.—(1.) Where the address shown on a units plan for service of documents is changed, the corporation shall forthwith give notice to the Registrar in accordance with Form 10.

Penalty: Fifty dollars.

(2.) On receipt of a notice under the last preceding sub-section, the Registrar shall endorse on the units plan a memorial of the change of address.

Registration of alteration of articles.

22. On the lodgment with the Registrar of a copy of a special resolution, certified under the seal of the corporation as a true copy of the resolution, altering the articles of the corporation, the Registrar shall register the resolution.

Registrar to register appointment, &c., of administrator.

23. On the lodgment with the Registrar of an office copy of an order made by the Court under Part VII. of the *Unit Titles Ordinance 1970*, appointing, removing or replacing an administrator of a corporation, the Registrar shall register the order.

No dealings while application for cancellation or alteration of units plan is pending.

24.—(1.) Where a copy of an application made to the Court under section 97 or section 100 of the *Unit Titles Ordinance 1970* is served on the Registrar, the Registrar shall register the copy of the application and shall enter on the units plan a memorial that the application has been made.

(2.) On the service on the Registrar of an office copy of an order for the cancellation of a units plan, of an order for the alteration of a units plan or of an order dismissing an application for such an order, the Registrar shall enter on the units plan a further memorial stating the effect of the order.

(3.) After a memorial is entered on a units plan under sub-section (1.) of this section and until a further memorial is entered on the units plan under the last preceding sub-section, the Registrar shall not, except in accordance with an order of the Court, register any instrument—

- (a) in the case of an application for an order for the cancellation of the units plan—affecting the lease of a unit; or
- (b) in the case of an application for an order for the alteration of the units plan providing for the elimination of a unit—affecting the lease of that unit.

Registration of instrument extending term of leases.

25. Upon the lodgment with him of an instrument under section 108 of the *Unit Titles Ordinance 1970*, the Registrar shall forthwith register the instrument and shall endorse on the units plan such memorials as are necessary to show that the term of the leases has been extended or further extended, as the case may be, and the date of expiry of the term so extended or further extended.

26.—(1.) At any time after the lodgment with the Registrar of an application for the registration of a units plan and before the units plan is registered, the applicant may apply in writing to the Registrar for the withdrawal of the application for registration.

Withdrawal of
units plan.

(2.) The Registrar shall, on the receipt of an application under the last preceding sub-section, endorse the application for the registration of the units plan as being withdrawn and deliver to the applicant the documents lodged under section 9 of this Ordinance.

27.—(1.) Where, immediately before the registration of a units plan, the lessee of the parcel held the lease as trustee, that person shall, upon the registration of the units plan, hold the leases of the units defined in the units plan in trust for the persons for whom, and the purposes for which, the lease of the parcel was so held.

Provisions
applicable in
relation to
trusts.

(2.) Where, immediately before the registration of an order for the cancellation of a units plan, the proprietor of a unit held the lease of the unit as trustee, that person shall, upon the registration of the order, hold the share in the estate, or the whole estate, as the case may be, of which he becomes possessed under paragraph (d) of sub-section (1.) of section 98 of the *Unit Titles Ordinance* 1970 in trust for the persons for whom, and the purposes for which, the lease of the unit was so held.

28.—(1.) The Registrar may, by notice in writing, require a person having in his possession, custody or control the duplicate certificate of title for a unit the lease of which has been determined to deliver it, within a time specified in the notice, to the Registrar for cancellation.

Delivery to
Registrar of
duplicate
certificates of
title.

(2.) A person who fails to comply with a requirement made under the last preceding sub-section is guilty of an offence and is punishable, on conviction, by a fine not exceeding Two hundred dollars.

THE SCHEDULES

FIRST SCHEDULE

FORM 1

Section 8.

Real Property (Unit Titles) Ordinance 1970

UNITS PLAN No.

Sheet No. 1 of Sheets

Block	, Section	, Division of
Register Book Volume	Folio	, Deposited Plan No.

Address of the Corporation for service of documents

I, _____ of _____, a surveyor registered under the *Surveyors Ordinance 1967-1970* hereby certify that the diagram on this sheet shows the boundaries of the abovementioned parcel of land, [*And, if the parcel is to be sub-divided into Class B units as defined in the Unit Titles Ordinance 1970, the boundaries of each of those units*] and the boundaries, at ground level, or projected to ground level, of the extremities of each building on the parcel and that each building is wholly within the parcel.

Dated this _____ day of _____, 19 _____

Registered Surveyor

Approved under the *Unit Titles Ordinance 1970* as the Units Plan for the sub-division of the abovementioned parcel of land.

Dated this _____ day of _____, 19 _____

Minister of State for the Interior

Registered by me on the _____ day of _____, 19 _____, at _____ minutes past _____ o'clock in the _____ noon, the number allotted to this Units Plan being _____

The terms of the leases of the units and the lease of the common property expire on the _____ day of _____

Registrar of Titles

SITE PLAN

Scale: _____ feet to the inch

Applicant

FIRST SCHEDULE—*continued*

FORM 3

Section 8.

Real Property (Unit Titles) Ordinance 1970

UNITS PLAN No. .

Sheet No. of Sheets

Block , Section

Division of

[*Number of Floor*] FLOOR PLAN

Scale: feet to the inch

Applicant

Minister of State for the Interior

FIRST SCHEDULE—continued

FORM 4

Section 8.

Real Property (Unit Titles) Ordinance 1970

UNITS PLAN No.

Sheet No. of Sheets

Block , Section

Division of

SCHEDULE OF PROVISIONS, COVENANTS AND CONDITIONS SUBJECT TO WHICH LEASES OF UNITS ARE HELD

1. The term of the lease of each of the units expires on the day of

2. The rent reserved by, and payable under, the lease of each of the units is as follows:—

3. The lessee of Unit No. [or Each of the lessees of Units Nos.] covenants with the Commonwealth of Australia as follows:—

And the lessee of Unit No. [or Each of the lessees of Units Nos.] further covenants with the Commonwealth of Australia as follows:—

4. The Commonwealth of Australia covenants with the lessee of Unit No. [or Each of the lessees of Units Nos.] as follows:—

5. It is mutually covenanted and agreed by the Commonwealth of Australia and each of the lessees of Units Nos. as follows:—

Dated this day of , 19 .

Applicant Minister of State for the Interior

FIRST SCHEDULE—continued

FORM 5

Section 8.

Real Property (Unit Titles) Ordinance 1970

Sheet No. of Sheets

UNITS PLAN No. .

Block , Section ,

Division of

SCHEDULE OF PROVISIONS, COVENANTS AND CONDITIONS SUBJECT TO
WHICH THE LEASE OF THE COMMON PROPERTY IS HELD

1. The term of the lease expires on the _____ day of _____ .
2. The rent reserved by, and payable under, the lease is Five cents per annum, if and when demanded.
3. The Corporation covenants with the Commonwealth of Australia as follows:—

4. The Commonwealth of Australia covenants with the Corporation as follows:—

5. It is mutually covenanted and agreed by the Commonwealth of Australia and the Corporation as follows:—

Dated this _____ day of _____ , 19 _____ .

Applicant

Minister of State for the Interior

FORM 6

Section 9.

Real Property (Unit Titles) Ordinance 1970

APPLICATION FOR REGISTRATION OF UNITS PLAN

I, [Name, residence and occupation or other description],
being the registered proprietor of the Crown Lease of the land comprised in Block _____ ,
Section _____ , Division of _____ , Register Book Volume _____ Folio _____
, hereby apply for the registration of the annexed Units Plan.

The Units Plan consists of _____ sheets, numbered 1 to _____ , inclusive.

Dated this _____ day of _____ , 19 _____ .

Witness

Applicant

I hereby certify that this application and the annexed Units Plan are correct for the
purposes of the Real Property Ordinance 1925-1970 and of the Real Property (Unit Titles)
Ordinance 1970.

[Signature]

To the Registrar of Titles

FIRST SCHEDULE—continued

FORM 7

Section 9.

Real Property (Unit Titles) Ordinance 1970

CONSENT TO REGISTRATION OF UNITS PLAN

I, [Name, residence and occupation or other description], being the registered proprietor of [description of estate or interest] in Crown Lease of the land comprised in Block , Section , Division of , Register Book Volume Folio , hereby consent to the registration of the Units Plan for the sub-division of that land.

Dated this day of , 19 .

Witness Registered Proprietor

I hereby certify that this consent to registration is correct for the purposes of the Real Property Ordinance 1925-1970 and of the Real Property (Unit Titles) Ordinance 1970.

[Signature]

FORM 8

Section 11.

AUSTRALIAN CAPITAL TERRITORY

Real Property (Unit Titles) Ordinance 1970

CERTIFICATE OF TITLE FOR UNIT No. SHOWN ON UNITS PLAN No. .

[Name, residence and occupation or other description] is registered as the proprietor of an estate of leasehold in Unit No. shown on Units Plan No. , registered by me on the day of , 19 , subject, nevertheless, to the rights created by section 27 of the Unit Titles Ordinance 1970 and the rights, mortgages, encumbrances, liens and interests notified by memorial underwritten or endorsed on this Certificate of Title.

Dated this day of , 19 .

Witness Registrar of Titles

FORM 9

Section 11.

AUSTRALIAN CAPITAL TERRITORY

Real Property (Unit Titles) Ordinance 1970

CERTIFICATE OF TITLE FOR COMMON PROPERTY COMPRISED IN UNITS PLAN No.

[Name of corporation] is registered as the proprietor of an estate of leasehold in the Common Property comprised in Units Plan No. , registered by me on the day of , 19 , subject, nevertheless, to the rights created by section 27 of the Unit Titles Ordinance 1970 and to the easements notified by memorial underwritten or endorsed on this Certificate of Title.

Dated this day of , 19 .

Witness Registrar of Titles

FORM 10

Section 21.

Real Property (Unit Titles) Ordinance 1970 UNITS PLAN No. .

NOTICE OF CHANGE OF ADDRESS FOR SERVICE OF DOCUMENTS

[Name of corporation] hereby gives notice that the address for service on it of documents has been changed from to .

Dated this day of , 19 .

[L.S.]

To the Registrar of Titles

SECOND SCHEDULE

Section 8.

REQUIREMENTS IN RELATION TO UNITS PLANS

PART I.—GENERAL.

1. One copy of each sheet containing a diagram or diagrams shall be of good quality tracing linen and other copies and other sheets shall be of good quality paper.
2. All sheets shall be of the size known as International B4.
3. All sheets shall be free from discolouration and blemishes.
4. The contents of a sheet shall be written or drawn on one side only of the sheet.
5. Sheets shall not be creased or folded.
6. The contents of a sheet shall be so placed as to leave a margin of at least $1\frac{1}{2}$ " on the left-hand side of the sheet and a margin of at least $\frac{1}{4}$ " on each of the other three sides of the sheet.
7. No printing, writing or diagram (other than the reference to the sheet number) shall extend into a margin on the sheet.
8. An alteration shall be made by striking through the matter to be altered and not by rubbing, scraping or cutting the surface of the linen or paper.
9. All writing shall be legible and in ink.
10. All sheets shall be numbered consecutively commencing with the figure 1 and on each sheet there shall be stated the total number of sheets comprising the Units Plan.

PART II.—REQUIREMENTS IN RELATION TO DIAGRAMS.

1. Each diagram shall be drawn in water-proof Indian ink.
2. Each diagram shall be drawn to a stated scale, being a scale sufficient to enable all details and notations to be clearly shown.
3. Each diagram shall indicate, by an arrow or other appropriate means, the direction of North.
4. All linear measurements shall be shown in feet and decimal fractions of a foot.
5. If necessary, a diagram may be commenced on one sheet and continued on a subsequent sheet and, in such a case, the diagrams shall be so drawn that the complementary parts or lines on the several sheets show, when placed side by side, the complete diagram.

PART III.—NUMBERING OF UNITS AND UNIT SUBSIDIARIES.

1. Units shall be numbered consecutively, commencing with the figure 1.
2. A unit subsidiary shall be shown as having the same number as the unit to which it is appurtenant prefixed with the letter S.
3. If there are two or more unit subsidiaries appurtenant to a unit, each of those unit subsidiaries shall be distinguished by the addition of a consecutive number in brackets commencing with the figure (1), thus S1(1), S1(2) and so on.