NORTHERN TERRITORY OF AUSTRALIA

TERMINATION OF UNITS PLANS AND UNIT TITLE SCHEMES ACT 2014

As in force at 1 May 2019

Table of provisions

Part 1 Preliminary matters

1 Short title 1
2 Commencement 1
3 Act binds Crown 1
4 Interpretation 1
5 Application of Criminal Code 6

Part 2 General rules

6 Termination of development 6

Part 3 Termination by unanimous resolution

7 Termination by resolution 6

Part 4 Termination by vote of required percentage of owners

8 Application of Part 7
9 Application for approval certificate 7
10 Approval certificate 9
11 Resolution – proposed termination 11
12 If resolution passed 12
13 Sale to proponent of unit of objecting owner 15
14 Limits on vote after resolution defeated 18

Part 5 Termination by Tribunal

15 Application of Part 19
16 Who may apply to Tribunal 19
17 Order of Tribunal 21
18 Appeal to Supreme Court 22

Part 6 Effect of termination

19 When termination takes effect 23
20 Effect of termination 23

Part 7 Miscellaneous provisions

21 Misleading information 25
22 Commencing proceedings 26
23 Regulations 26

Part 8 Transitional matters for Termination of Units Plans and Unit Title Schemes Act 2014

24 Definitions 26
25 Application for termination made before commencement 27
26 Notice of termination resolution sent before commencement 27
27 Termination resolution passed before commencement 27

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 2019

TERMINATION OF UNITS PLANS AND UNIT TITLE SCHEMES ACT 2014

An Act to provide for the termination of units plans and unit title schemes, and for related purposes

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Termination of Units Plans and Unit Title Schemes Act 2014*.

2 Commencement

This Act commences on 1 January 2015.

3 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

4 Interpretation

(1) In this Act:

approval certificate means:

(a) an approval certificate issued under section 10; or

(b) an order made by the Tribunal on an application under section 10(5)(b) that has the same effect as an approval certificate.

basic scheme, see section 63(3) of the *Unit Title Schemes Act 2009*.

body corporate, in relation to a development:

(a) if the development is a scheme – see section 5 of the *Unit Title Schemes Act 2009*; or

(b) otherwise – means a corporation.

building development, see section 4(1) of the *Unit Titles Act 1975*.

common property, in relation to a development:

(a) if the development is a scheme – see section 33(1) of the *Unit Title Schemes Act 2009*; or

(b) otherwise – see section 4(1) of the *Unit Titles Act 1975*.

condominium development, see section 4(1) of the *Unit Titles Act 1975*.

corporation, see section 4(1) of the *Unit Titles Act 1975*.

development means a scheme, unit development, building development, condominium development or estate development.

development land means the units and the common property of a development.

draft notice of proposed termination, see section 9(2).

estate development, see section 4(1) of the *Unit Titles Act 1975*.

higher scheme, in relation to a development, means:

(a) if the development is a scheme – a higher scheme as defined in section 63(2) of the *Unit Title Schemes Act 2009*; or

(b) otherwise – a development under which one or more building lots or estate development lots have been further subdivided into units and common property.

interest entitlement, in relation to a development, means:

(a) if the development is a scheme – see section 5 of the *Unit Title Schemes Act 2009*; or

(b) otherwise – a unit entitlement as defined in section 4(1) of the *Unit Titles Act 1975*.

notice of proposed termination, see section 10(6).

objecting owner, in relation to a termination of a development mentioned in section 11(1), means an owner of a unit in the development who has not voted in favour of the resolution mentioned in that section.

owner, in relation to a unit in a development:

(a) means:

(i) if the development is a scheme – the unit owner under the *Unit Title Schemes Act 2009*; or

(ii) otherwise – the proprietor of the unit under the *Unit Titles Act 1975*; and

(b) includes a person who has a share of the ownership of the unit as a joint tenant or tenant in common; and

(c) also includes the following persons:

(i) a mortgagee in possession of the unit;

(ii) an executor of an estate that includes the unit;

(iii) any other person who has the right to sell the unit.

plan of termination means a plan of termination prescribed by regulation for section 54G of the *Land Title Act 1975*.

prescribed number of days, in relation to a provision of this Act, means:

(a) if a number of days has been prescribed for the provision by regulation – that number of days; or

(b) if a number of days has not been prescribed by regulation:

(i) for section 10(1) or (5) or 13(4)(d) – 56 days; or

(ii) for section 12(2)(b)(i) or 13(2)(b) – 182 days; or

(iii) for section 13(4)(a) or (b) – 14 days; or

(iv) otherwise – 28 days.

prescribed professional organisation means a professional organisation prescribed by regulation for this Act.

proponent, in relation to a development to which Part 4 applies, means:

(a) an owner of a unit in the development who proposes:

(i) the termination of the development; or

(ii) the termination of the development and the redevelopment of the development land; or

(b) a person formed by 2 or more owners of units mentioned in paragraph (a).

required percentage, of the owners of the units in a development to which Part 4 applies, means:

(a) if the development is at least 30 years of age on the day on which the proponent makes the application for an approval certificate under section 9(1) – owners who together have the right to vote in relation to at least 80% of the total interest entitlement of the development on that day; or

(b) if the development is at least 20 years of age but less than 30 years of age on the day on which the proponent makes the application for an approval certificate under section 9(1) – owners who together have the right to vote in relation to at least 90% of the total interest entitlement of the development on that day; or

(c) if the development is at least 15 years of age but less than 20 years of age on the day on which the proponent makes the application for an approval certificate under section 9(1) – owners who together have the right to vote in relation to at least 95% of the total interest entitlement of the development on that day.

scheme, see section 5 of the *Unit Title Schemes Act 2009*.

schemes supervisor, see section 5 of the *Unit Title Schemes Act 2009*.

subsidiary scheme, see section 63(1) of the *Unit Title Schemes Act 2009*.

termination, of a development, means:

(a) if the development is a scheme – termination of the scheme; or

(b) if the development is a unit development, building development, condominium development or estate development – cancellation of the units plan.

Tribunal means the Northern Territory Civil and Administrative Tribunal.

unanimous resolution, of a body corporate of a development, means a resolution passed when the number of the votes counted in favour of the resolution is equal to the total number of the units in the development.

unit in relation to a development:

(a) if the development is a scheme – see section 37 of the *Unit Title Schemes Act 2009*; or

(b) otherwise – see section 4(1) of the *Unit Titles Act 1975*.

unit development means a development to which Part III of the *Unit Titles Act 1975* applies, and includes lots subdivided under section 26Y, and building lots subdivided under section 26ZV, of that Act.

valuer means a person who is a member of a prescribed professional organisation.

(2) The start date for the reckoning of the age of a development for the definition of ***required percentage*** in subsection (1) is:

(a) for a development that contains buildings:

(i) if the date on which the development's buildings were substantially completed (or, in the case of different days, the date on which the first of the development's buildings to be substantially completed was substantially completed) is proven – that date; or

(ii) if the date mentioned in subparagraph (i) is not proven but the date on which occupancy of the development's buildings was first permitted under the *Building Act 1993* (or, in the case of different dates, the date on which occupancy of the first of the buildings was first permitted under that Act) is proven – that date; or

(iii) if the dates mentioned in subparagraphs (i) and (ii) are not proven, but the Registrar-General has provided information under section 38 of the *Land Title Act 2000* that indicates the earliest date on which a development's buildings existed – that date; or

(b) for a development that does not contain buildings, or if the dates mentioned in paragraph (a)(i), (ii) and (iii) are not proven – the date on which the scheme was formed or the units plan was registered.

(3) A term not defined in this Act but defined in the *Land Title Act 2000*, *Real Property (Unit Titles) Act 1975*, *Unit Title Schemes Act 2009* or *Unit Titles Act 1975* has the same meaning in this Act.

5 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 5

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 General rules

6 Termination of development

(1) Unless section 72 of the *Unit Title Schemes Act 2009* applies, a development may be terminated only under this Act:

(a) by unanimous resolution; or

(b) if Part 4 applies – by a vote of the required percentage of the owners of the units in the development in accordance with that Part; or

(c) by order of the Tribunal under Part 5.

(2) A higher scheme of a development may not be terminated under this Act unless, at the same time, all its subsidiary schemes are also terminated.

Part 3 Termination by unanimous resolution

7 Termination by resolution

A development may be terminated if the body corporate of the development decides to terminate it by a unanimous resolution.

Part 4 Termination by vote of required percentage of owners

8 Application of Part

This Part applies to the termination, by a resolution of the required percentage of the owners of the units in a development:

(a) that is at least 15 years of age on the day on which the proponent makes the application for an approval certificate under section 9(1); and

(b) in which there are at least 10 units.

9 Application for approval certificate

(1) If there is no unanimous resolution to terminate a development, the proponent of the termination of the development must make a written application to the schemes supervisor for an approval certificate, accompanied by the fee prescribed by regulation and a draft notice of proposed termination.

(2) A ***draft notice of proposed termination*** must contain the following information:

(a) the name and contact details of the proponent;

(b) an explanation of the process required under this Part for the termination of the development that:

(i) if the schemes supervisor has published a form of explanation – is in that form; and

(ii) if the development is a unit development, building development, condominium development or estate development – states that there is a requirement that any development resulting from any redevelopment is a scheme;

(c) a statement of the right of an owner of a unit in the development to sell the unit in accordance with this Part if the proposed termination is approved;

(d) a statement of any proposed disposition of the property that is owned by the body corporate immediately before the termination;

(e) if redevelopment of the development land is proposed – a description of the reason for the proposed termination, and a description of the proposed redevelopment, including the following:

(i) architectural plans for the proposed redevelopment;

(ii) a statement of the approximate date on which it is proposed that the redevelopment would start and be completed;

(iii) the estimated cost of the proposed redevelopment, including a plan for the financing of the proposed redevelopment;

(iv) a proposal for the way in which owners of units in the development, and any tenants, would be dealt with during the carrying out of the works for the proposed redevelopment, and, if applicable, after its completion, including in relation to relocation or a payment to the owners instead of relocation;

(v) if the proposed redevelopment would result in a higher scheme or subsidiary scheme – the information prescribed by regulation;

(vi) if applicable, a proposed scheme statement for the development land after the redevelopment is completed;

(vii) an estimate of the value of the development land after the proposed redevelopment is completed;

(viii) a statement disclosing any arrangements or proposed arrangements with a person for any proposed redevelopment;

(f) any other information about a matter mentioned in paragraphs (a) to (e) or another matter prescribed by regulation.

10 Approval certificate

(1) As soon as practicable after receiving an application under section 9(1), the schemes supervisor must review the application, and do one of the following, within the prescribed number of days after receiving the application:

(a) if satisfied that the draft notice is sufficient to permit the owners of the units in the development to make an informed decision on the proposed termination – issue an approval certificate to the proponent;

(b) if not satisfied that enough information has been provided for the schemes supervisor to decide whether or not to issue an approval certificate – serve on the proponent a request that:

(i) describes the type of information sought; and

(ii) fixes a date before which the proponent must provide the information;

(c) if not satisfied that the draft notice is sufficient as described in paragraph (a) – do one of the following:

(i) if satisfied that the matters to be addressed for the application to comply with this Part could likely be addressed within a reasonable time – serve on the proponent an explanatory notice that:

(A) describes those matters; and

(B) fixes a date before which the proponent must address those matters;

(ii) otherwise – reject the application.

(2) If an explanatory notice under subsection (1)(c)(i) is served on the proponent, the proponent may do one of the following before the date fixed in the notice:

(a) address the matters in accordance with the explanatory notice and serve on the schemes supervisor an amended draft notice of proposed termination;

(b) choose not to proceed with the proposed termination and serve a notice withdrawing the application on the schemes supervisor;

(c) appeal to the Tribunal against the explanatory notice, not later than the last day of the prescribed number of days after the date fixed in the notice.

(3) The proponent is taken to have abandoned the application for the approval certificate if:

(a) a request under subsection (1)(b), or an explanatory notice under subsection (1)(c)(i), is served on the proponent; and

(b) the proponent does not provide the information, or address the matters, before the date fixed in the request or notice, or any later date agreed to by the schemes supervisor.

(4) If an amended draft notice of proposed termination is served under subsection (2)(a), the schemes supervisor:

(a) must deal with the amended draft notice of proposed termination as though it were the original draft notice of proposed termination that accompanied the application served under section 9(1); but

(b) must not serve another request under subsection (1)(b) or explanatory notice under subsection (1)(c)(i) after reviewing the amended draft notice.

(5) If the schemes supervisor does not do one of the actions required by subsection (1) before the last day of the prescribed number of days applicable to that subsection:

(a) the application for an approval certificate is taken to have been rejected; and

(b) the proponent may apply to the Tribunal, not later than the last day of the prescribed number of days after the last day of the prescribed number of days applicable to subsection (1), for an order that has the same effect as an approval certificate; and

(c) if the schemes supervisor does one of the actions mentioned in subsection (1) before the Tribunal has begun to hear the application under paragraph (b):

(i) the action is as valid as if it had been done before that last day of that prescribed number of days; and

(ii) the Tribunal must not proceed to hear the application; and

(iii) the schemes supervisor must, if the proponent so requests, pay to the proponent an amount not greater than the amount of any filing or hearing fee paid in relation to the application by the proponent.

(6) A draft notice of proposed termination (or amended draft notice of proposed termination) becomes the ***notice of proposed termination*** for this Act:

(a) if the proponent has applied to the Tribunal for an order under subsection (5)(b) – when the order made by the Tribunal that has the same effect as an approval certificate takes effect; or

(b) otherwise – when the approval certificate is issued under this section.

11 Resolution – proposed termination

(1) As soon as practicable after receiving an approval certificate under section 10, a proponent must serve a request on the body corporate asking that a meeting of the body corporate be held to vote on a resolution for the termination of the development in accordance with the notice of proposed termination.

(2) The body corporate must:

(a) notify each owner and each mortgagee of a unit in the development of the meeting; and

(b) include a copy of the notice of proposed termination with the notice to each owner and each mortgagee of the meeting; and

(c) hold the meeting not earlier than 3 months and not later than 12 months after the date of the approval certificate.

(3) A mortgagee must be heard at the meeting if the mortgagee:

(a) is present at the meeting; and

(b) requests to be heard at the meeting to object to the proposed termination of the development.

(4) If the body corporate does not do what it is required to do under subsection (2):

(a) the proponent may apply to the Tribunal, within the prescribed number of days, for an order requiring the body corporate to do what it is required to do; and

(b) the Tribunal may make any order it considers necessary, including the following:

(i) an order requiring the body corporate to do what it is required to do;

(ii) an order requiring another person to do what the body corporate is required to do instead of the body corporate.

12 If resolution passed

(1) If, at a meeting held after a request is served under section 11(1), the resolution is passed by the required percentage of the owners of the units in the development:

(a) the termination of the development, in accordance with the notice of proposed termination and this Act, is approved; and

(b) the body corporate must, within 14 days after the resolution is passed, serve a copy of the resolution on each owner and each mortgagee of a unit in the development; and

(c) an objecting owner must do one of the following, within the prescribed number of days after the resolution is served under paragraph (b):

(i) give a notice in writing to the proponent stating that the objecting owner is no longer to be considered an objecting owner;

(ii) give a notice in writing to the proponent stating that the objecting owner is selling the unit otherwise than under section 13;

(iii) serve the written notice of intention to sell the unit under section 13;

(iv) apply to the Tribunal for an order under Part 5; and

(d) a mortgagee who objects to the proposed termination may apply to the Tribunal, within the prescribed number of days after the resolution is served on the mortgagee under paragraph (b), for an order under Part 5.

Note for subsection (1)

See section 19 for how and when the termination takes effect.

(2) The following applies to an objecting owner who gives or serves a notice mentioned in subsection (1)(c):

(a) if the notice is given under subsection (1)(c)(i) – the objecting owner must cooperate in the termination of the development;

(b) if the notice is given under subsection (1)(c)(ii):

(i) the objecting owner must, within the prescribed number of days after giving the notice, provide a copy of a binding contract to purchase the objecting owner's unit to the proponent; and

(ii) the objecting owner must proceed with the sale as soon as practicable after providing the copy, and in any event, not later than 42 days after providing it;

(c) if the notice is served under subsection (1)(c)(iii) – the objecting owner must proceed with the sale in accordance with section 13 as soon as practicable.

(3) If an objecting owner does not do one of the things mentioned in subsection (1)(c) as required by that subsection, or comply with subsection (2)(a) or (c) if applicable, the proponent may apply to the Tribunal, within 28 days after the last day of the prescribed number of days applicable to subsection (1)(c), for an order for the sale of the objecting owner's unit to the proponent:

(a) at a price fixed by the Tribunal after it has received the written report mentioned in subsection (5); and

(b) on the other terms and conditions ordered by the Tribunal and that comply with any requirements prescribed by regulation as mentioned in section 13(5)(a)(ii).

(4) If subsection (2)(b) applies and an objecting owner does not comply with it, the proponent may apply to the Tribunal for an order for the sale of the objecting owner's unit to the proponent:

(a) at a price fixed by the Tribunal after it has received the written report mentioned in subsection (5); and

(b) on the other terms and conditions ordered by the Tribunal and that comply with any requirements prescribed by regulation as mentioned in section 13(5)(a)(ii).

(5) The Tribunal must not fix a price under subsection (3)(a) until it has received a written report of a valuer's expert advice on the value of the unit, assessed on the basis mentioned in section 13(4)(d)(i).

(6) An application under this section must be served as follows:

(a) an application under subsection (1)(c)(iv) or (d) must be served on the following persons:

(i) the proponent;

(ii) each owner of a unit in the development;

(iii) each mortgagee of a unit in the development;

(iv) the schemes supervisor;

(b) an application under subsection (3) must be served on the following persons:

(i) the objecting owner;

(ii) each mortgagee of the objecting owner's unit;

(iii) the schemes supervisor.

(7) The effect of an application mentioned in subsection (1)(c)(iv) or (d) is to suspend termination of the development until the application or, if applicable, an appeal under section 18, has been decided.

(8) If a person acquires, or enters into a binding agreement for the acquisition of, a unit in the development after the resolution is passed but before the details and information are registered under subsection (9)(b):

(a) the body corporate must, as soon as practicable and in any event within 14 days after the body corporate becomes aware of the acquisition or entering into of the agreement, serve a copy of the resolution mentioned in subsection (1) on the person; and

(b) after the copy of the resolution is served:

(i) this Act applies to the person as if the person were an objecting owner; and

(ii) the person must do one of the things mentioned in subsection (1)(c), within the prescribed number of days after the copy of the resolution is served under paragraph (a).

(9) After the resolution is passed:

(a) the body corporate must give to the Registrar-General, within 14 days after the date of the meeting:

(i) a copy of the notice of proposed termination; and

(ii) any document or information prescribed by regulation; and

(iii) the fee prescribed by regulation; and

(b) the Registrar-General must, as soon as practicable after receiving the documents under paragraph (a), register the notice of proposed termination, and the information prescribed by regulation, in the land register kept under section 6 of the *Land Title Act 2000*; and

(c) a person who acquires, or enters into a binding agreement for the acquisition of, a unit in the development after the details and information are registered under paragraph (b) has the same rights and duties as the owner from whom the person has acquired the unit; and

(d) the proponent must pay the body corporate, on demand, the amount of the fee that the body corporate has paid under paragraph (a)(iii).

(10) The body corporate may apply to the Tribunal for an extension of the 14 days mentioned in subsection (9)(a).

13 Sale to proponent of unit of objecting owner

(1) An objecting owner who decides to sell the owner's unit to the proponent under this section must, within the prescribed number of days after a copy of the resolution is served on the objecting owner under section 12(1)(b), serve a written notice of intention to sell the unit on the following persons:

(a) the proponent;

(b) the mortgagee of the unit;

(c) the body corporate;

(d) the schemes supervisor.

(2) The notice under subsection (1) must include the following information:

(a) a statement of the price at which the objecting owner offers to sell the unit;

(b) a statement of the period (which must end at least the prescribed number of days after the service on the proponent of the notice of intention to sell) during which the offer to sell at the price mentioned in paragraph (a) is open for acceptance;

(c) any other information about a matter mentioned in paragraph (a) or (b) or another matter prescribed by regulation.

(3) Before the last day of the prescribed number of days applicable to subsection (2)(b), the proponent and the objecting owner may agree to the sale of the unit, either at the price mentioned in subsection (2)(a) or at another price on which they agree.

(4) If the proponent and the objecting owner do not agree to the sale of the unit under subsection (3):

(a) the proponent must, within the prescribed number of days after the service of the notice under subsection (1), serve a written application on the schemes supervisor, accompanied by the fee prescribed by regulation, for an appointment under paragraph (b); and

(b) the schemes supervisor must, within the prescribed number of days after the service of the application under paragraph (a), request a prescribed professional organisation to appoint a valuer to provide expert advice as to the value of the unit; and

(c) the prescribed professional organisation must, within the prescribed number of days after the request under paragraph (b), appoint a valuer to provide that advice; and

(d) within the prescribed number of days after the appointment under paragraph (c), the valuer must:

(i) assess the value of the unit, using the rules in Schedule 2 to the *Lands Acquisition Act 1978* in the same way as they would be used for an assessment of compensation payable for an acquisition of the unit under that Act; and

(ii) provide a written report as to the valuer's expert advice on the value assessed under subparagraph (i) to the following persons:

(A) the proponent (on payment of the reasonable fees of the valuer);

(B) the objecting owner;

(C) the body corporate;

(D) the schemes supervisor.

(5) The objecting owner must, within the prescribed number of days after the report is provided under subsection (4)(d)(ii):

(a) execute a binding agreement to sell the unit to the proponent:

(i) at a price equal to the value mentioned in the report; and

(ii) on terms and conditions that comply with any requirements prescribed by regulation, including as to when the sale will occur or when vacant possession of the unit must be delivered; or

(b) apply to the Tribunal for an order under Part 5 in relation to the termination of the development.

(6) The following persons may apply to the Tribunal, and the Tribunal may make any order it considers necessary, in the following circumstances:

(a) the objecting owner may apply for an order requiring the proponent to apply to the schemes supervisor for the appointment of a valuer as required by subsection (4)(a);

(b) the proponent may apply for an order requiring the schemes supervisor to request a prescribed professional organisation to appoint a valuer, if the schemes supervisor does not make the request as required by subsection (4)(b);

(c) the proponent, the objecting owner or the schemes supervisor may apply for an order appointing a valuer to perform the functions under subsection (4)(d)(i) and (ii) if the prescribed professional organisation does not appoint one as required by subsection (4)(c);

(d) the proponent, the objecting owner or the schemes supervisor may apply for an order fixing the price for the sale of the unit if the valuer does not provide the report as required by subsection (4)(d)(ii);

(e) the proponent may apply for an order for the sale of the unit to the proponent at the price mentioned in subsection (5)(a)(i) if the objecting owner does not execute the binding agreement mentioned in that subsection;

(f) the proponent or the objecting owner may apply for an order fixing the terms and conditions of the sale of the unit to the proponent if the proponent and the owner are unable to agree on the terms and conditions under subsection (5)(a)(ii) as required by that subsection.

(7) The following are payable by the proponent:

(a) the costs associated with a sale mentioned in subsection (3), (5)(a) or (6)(e) or (f);

(b) the reasonable fees of the valuer for performing the functions under subsection (4)(d)(i) and (ii).

14 Limits on vote after resolution defeated

(1) This section applies when a person wishes to propose the termination of a development after a resolution for the termination of the development is voted on and not passed by the required percentage of the owners of the units in the development (the ***earlier resolution***).

(2) If the terms of the proposal are identical to those in the earlier resolution, the proponent for the earlier notice of proposed termination, or another proponent, may:

(a) serve a request under section 11(1) on the body corporate; or

(b) make an application under section 9 for an approval certificate.

(3) A request mentioned in subsection (2)(a) must not be served, and an application mentioned in subsection (2)(b) must not be made, within 26 weeks after the meeting at which the earlier resolution was not passed.

(4) If the terms of the proposal are not identical to those in the earlier resolution, the proponent (whether or not the proponent in relation to the earlier resolution) must make an application under section 9 for an approval certificate but must not make the application within

26 weeks after the meeting at which the earlier resolution was not passed.

(5) This Act applies every time a request mentioned in subsection (2)(a) is served, or an application mentioned in subsection (2)(b) or (4) is made, in the same way as it does to an earlier proposal.

Part 5 Termination by Tribunal

15 Application of Part

This Part applies when an application is made to the Tribunal by:

(a) a person mentioned in section 16(1) for an order in relation to the termination of a development:

(i) if the development is one in which there are fewer than 10 units; or

(ii) if the development is one to which Part 4 does not apply for any other reason; or

(b) a person mentioned in section 16(2) for an order in relation to the termination of a development to which Part 4 applies.

16 Who may apply to Tribunal

(1) The following persons may apply to the Tribunal for an order mentioned in section 15(a):

(a) if the development is a scheme:

(i) if the scheme is a basic scheme – the body corporate, or an owner of a unit, of the basic scheme; or

(ii) if the scheme is a higher scheme – the body corporate, or an owner of a unit, of the higher scheme or any of its subsidiary schemes;

(b) if the development is a unit development, building development, condominium development or estate development – the corporation, the administrator of the corporation or an owner of a unit in the development.

(2) The following persons may apply to the Tribunal for an order mentioned in section 15(b):

(a) a person on whom a right to apply to the Tribunal is conferred by Part 4 if:

(i) a unanimous resolution to terminate the development has not been passed; and

(ii) a resolution has been passed as mentioned in section 12(1);

(b) the corporation, the administrator of the corporation or an owner of a unit in the development if:

(i) the development is a unit development, building development, condominium development or estate development; and

(ii) a unanimous resolution to terminate the development has not been passed; and

(iii) a meeting was held after a request under section 11(1) but the resolution for the termination of the development was not passed by the required percentage of the owners of the units in the development;

(c) the body corporate, or an owner of a unit if:

(i) the development is a basic scheme; and

(ii) a unanimous resolution to terminate the development has not been passed; and

(iii) a meeting was held after a request under section 11(1) but the resolution for the termination of the development was not passed by the required percentage of the owners of the units in the development;

(d) the body corporate, or an owner of a unit in the higher scheme or any of its subsidiary schemes if:

(i) the development is a higher scheme; and

(ii) a unanimous resolution to terminate the development has not been passed; and

(iii) a meeting was held after a request under section 11(1) but the resolution for the termination of the development was not passed by the required percentage of the owners of the units in the development.

17 Order of Tribunal

(1) The Tribunal may make an order approving the termination of a development, or the termination of the development and the redevelopment of the development land, only if the Tribunal considers that:

(a) it is just and equitable to do so; and

(b) any objection to the termination or redevelopment by an owner of a unit in the development is unreasonable; and

(c) it is otherwise necessary to do so, taking into account any factors prescribed by regulation.

(2) In deciding whether to approve the termination of a development and any redevelopment of the development land, the Tribunal must also consider the following:

(a) the extent to which an owner of a unit in the development is likely to suffer adverse consequences if the termination of the development were ordered;

(b) the extent to which an owner of a unit in the development is likely to suffer adverse consequences if the termination of the development were not ordered;

(c) the financial benefits and risks of the proposed termination and, if applicable, the proposed redevelopment;

(d) whether an order of the Tribunal, or of a court, other than an order for termination of the development, would be more appropriate;

(e) any matter prescribed by regulation.

(3) In considering the application, the Tribunal must take into account the views expressed by any of the following:

(a) the schemes supervisor;

(b) an affected local government council;

(c) the body corporate, or an owner or mortgagee of a unit in the development or in a higher scheme in relation to the development.

(4) The Tribunal may, subject to any requirements prescribed by regulation, make any order it considers necessary in relation to the termination or any redevelopment of the development land, including the following:

(a) an order extending the time in which an application to the Tribunal must be made, or to extend any other time limit in this Act;

(b) an order providing for accommodation for occupiers of units;

(c) an order providing for the sale of a unit of an objecting owner;

(d) an order for the formation of a new scheme under the *Unit Title Schemes Act 2009* after redevelopment is complete;

(e) an order, on application by a person who has an interest in property that the body corporate held immediately before the termination, for the control or disposal of the property;

(f) an order for the termination of a tenancy, which may include compensation of the tenant.

(5) However, the Tribunal's power under this section does not extend to making an order relating to the consolidation or subdivision of land otherwise than in accordance with the *Planning Act 1999*.

(6) An order of the Tribunal takes effect at the later of the following:

(a) if no appeal is instituted under section 18 – at the end of the last day of the prescribed number of days applicable to section 18(3);

(b) if an appeal is instituted within the prescribed number of days applicable to section 18(3) but is unsuccessful – at the end of the proceedings for the appeal.

18 Appeal to Supreme Court

(1) A party to an application may appeal to the Supreme Court against an order of the Tribunal on the application.

(2) The appeal may be made in relation to a question of law only.

(3) The appeal must be instituted within the prescribed number of days after the Tribunal makes its order.

(4) In deciding the appeal, the Supreme Court may:

(a) confirm the Tribunal's order; or

(b) set aside the Tribunal's order and substitute another order that the Tribunal could have made.

Part 6 Effect of termination

19 When termination takes effect

(1) For the termination of a development to take effect, section 54G of the *Land Title Act 2000* (the ***registration provision***) must be complied with as follows:

(a) if the termination is one to which Part 3 applies – the body corporate must lodge the documents required under the registration provision within 12 months after the unanimous resolution mentioned in section 7 is passed;

(b) if the termination is one to which Part 4 applies – the proponent must lodge the documents required under the registration provision within 12 months after the body corporate gives the documents to the Registrar-General under section 12(9)(a);

(c) if the termination is one to which Part 5 applies – the body corporate must lodge the documents within 12 months after the order of the Tribunal ordering termination takes effect under section 17(6).

(2) The person mentioned in subsection (1)(a), (b) or (c) may apply to the Tribunal for an extension of the 12 months.

(3) The termination of a development takes effect when:

(a) the documents required for the termination are registered under the registration provision; and

(b) the Registrar-General cancels the scheme statement or units plan under the registration provision.

20 Effect of termination

(1) On the termination of a development:

(a) the body corporate is dissolved; and

(b) each person who was an owner of a unit in the development immediately before the termination (a ***former owner***) is entitled to a share of the property held by the body corporate immediately before the termination in accordance with the interest entitlements; and

(c) the liabilities of the body corporate are vested jointly and severally in the former owners; and

(d) the liabilities for any statutory charges over the common property are vested jointly and severally in the former owners; and

(e) each person who was a holder of a registered interest in the development land, other than a lessee, immediately before the termination, continues to be the holder of the registered interest but only in relation to the following land:

(i) the land included in all of the units in the development immediately before the termination;

(ii) the land that was common property of the development immediately before the termination; and

(f) the liabilities for any taxes or statutory charges accrued by a former owner in relation to a unit continue to be vested in the former owner.

(2) A former owner:

(a) is not liable to pay any stamp duty that would otherwise be payable because of the operation of subsection (1); and

(b) is entitled to contributions from other former owners for the liabilities mentioned in subsection (1)(c) or (d) in accordance with the interest entitlements.

(3) Subsections (1) and (2) have effect subject to any requirement prescribed by regulation.

(4) In this section:

owner, in relation to a unit:

(a) means:

(i) if the development is a scheme – the unit owner under the *Unit Title Schemes Act 2009*; or

(ii) otherwise – the proprietor of the unit under the *Unit Titles Act 1975*; and

(b) includes a person who has a share of the ownership of the unit as a joint tenant or tenant in common.

Part 7 Miscellaneous provisions

21 Misleading information

(1) A person commits an offence if:

(a) the person gives information to another person; and

(b) the other person is the schemes supervisor or a valuer; and

(c) the person knows the information is misleading information; and

(d) the person knows the schemes supervisor or the valuer is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) A person commits an offence if:

(a) the person gives a document to another person; and

(b) the other person is the schemes supervisor or a valuer; and

(c) the person knows the document contains misleading information; and

(d) the person knows the schemes supervisor or a valuer is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) Subsection (2) does not apply if the person, when giving the document:

(a) draws the misleading aspect of the document to the schemes supervisor's or valuer's attention; and

(b) to the extent to which the person can reasonably do so – gives the schemes supervisor or valuer the information necessary to remedy the misleading aspect of the document.

(5) In this section:

acting in an official capacity, in relation to the schemes supervisor or a valuer, means the schemes supervisor or valuer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

22 Commencing proceedings

Proceedings for an offence against this Act may be commenced only:

(a) within 2 years after the date on which the offence is alleged to have been committed; or

(b) with the authorisation of the Minister – at a later time within 5 years after the date on which the offence is alleged to have been committed.

23 Regulations

(1) The Administrator may make regulations under this Act.

(2) The regulations may provide for the formula of the calculation of the fee to be paid by the proponent under section 9(1), including the calculation of the fee as a percentage of the estimated value of the development land mentioned in section 9(2)(e)(vii).

Part 8 Transitional matters for Termination of Units Plans and Unit Title Schemes Act 2014

24 Definitions

In this Part:

commencement means the commencement of this Act.

25 Application for termination made before commencement

(1) This section applies if, before the commencement:

(a) one of the following applications had been made to the Supreme Court:

(i) an application to cancel a units plan under section 95 of the *Unit Titles Act 1975*;

(ii) an application to terminate a unit title scheme under section 14 of the *Unit Title Schemes Act 2009*; and

(b) the Supreme Court had not made a final order in relation to the application.

(2) The Supreme Court must hear and determine the application as if this Act had not commenced.

26 Notice of termination resolution sent before commencement

(1) This section applies if, before the commencement:

(a) one of the following notices had been sent:

(i) a notice of a general meeting at which a resolution authorising the corporation to apply for the cancellation of the units plan is to be voted on under section 95A of the *Unit Titles Act 1975*;

(ii) a notice that a resolution mentioned in section 15(a) of the *Unit Title Schemes Act 2009* to terminate a scheme is to be voted on; and

(b) the resolution had not been voted on.

(2) The resolution is to be voted on, and if it is passed unanimously the cancellation or termination is to be registered, as if this Act had not commenced.

27 Termination resolution passed before commencement

(1) This section applies if, before the commencement:

(a) one of the following resolutions had been passed:

(i) a unanimous resolution authorising the corporation to apply for the cancellation of the units plan mentioned in section 95A of the *Unit Titles Act 1975*;

(ii) a unanimous resolution mentioned in section 15(a) of the *Unit Title Schemes Act 2009* to terminate a scheme; and

(b) the cancellation or termination had not been registered.

(2) The cancellation or termination is to be registered as if this Act had not commenced.

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

***Termination of Units Plans and Unit Title Schemes Act 2014* (Act No. 48, 2014)**

Assent date	8 December 2014
Commenced	1 January 2015 (s 2)

***Statute Law Revision Act 2017* (Act No. 4, 2017)**

Assent date	10 March 2017
Commenced	12 April 2017 (*Gaz* G15, 12 April 2017, p 3)

***Agents and Land Legislion Amendment Act 2019* (Act No. 6, 2019)**

Assent date	28 March 2019
Commenced	ss 3 to 5, 9 and 10, pts 3 to 5, ss 17, 25 to 27, 29, 33 and 34: 1 May 2019 (*Gaz* G18, 1 May 2019, p 4); rem: nc

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: ss 1, 4, 6, 12, 13, 17, 19, 20, 25, 26 and 27.

4 LIST OF AMENDMENTS

s 7	amd No. 6, 2019, s 16
s 19	amd No. 4, 2017, s 34
pt 9 hdg	exp No. 48, 2014, s 48
pt 9 div 1 hdg	exp No. 48, 2014, s 48
ss 28 – 30	exp No. 48, 2014, s 48
pt 9 div 2 hdg	exp No. 48, 2014, s 48
ss 31 – 32	exp No. 48, 2014, s 48

pt 9	
div 3 hdg	exp No. 48, 2014, s 48
ss 33 – 35	exp No. 48, 2014, s 48
pt 9	
div 4 hdg	exp No. 48, 2014, s 48
ss 36 – 43	exp No. 48, 2014, s 48
pt 9	
div 5 hdg	exp No. 48, 2014, s 48
ss 44 – 47	exp No. 48, 2014, s 48
pt 9	
div 6 hdg	exp No. 48, 2014, s 48
s 48	exp No. 48, 2014, s 48