



Australian Capital Territory

Planning and Building Legislation Amendment Act 2011

A2011-23

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Australian Capital Territory

Planning and Building Legislation Amendment Act 2011

A2011-23

An Act to amend legislation about planning and building

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Planning and Building Legislation Amendment Act 2011*.

2 Commencement

- (1) Part 1 commences on this Act's notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) Part 2 commences on the later of—

- (a) the day after this Act's notification day; and
- (b) the commencement of the *Construction Occupations Legislation (Exemption Assessment) Amendment Act 2010*, part 2 (Building Act 2004).

- (3) Section 7 commences on the later of—

- (a) the day after this Act's notification day; and
- (b) the commencement of the *Construction Occupations Legislation (Exemption Assessment) Amendment Act 2010*, part 3 (Construction Occupations (Licensing) Act 2004).

- (4) Sections 25, 26, 27 and 28 commence on the later of—

- (a) the day after this Act's notification day; and
- (b) the commencement of the *Construction Occupations Legislation (Exemption Assessment) Amendment Act 2010*, part 5 (Planning and Development Act 2007).

- (5) The remaining provisions commence on the day after this Act's notification day.

Note If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

This Act amends the following legislation:

- *Building Act 2004*
- *Construction Occupations (Licensing) Act 2004*
- *Electricity Safety Act 1971*
- *Gas Safety Act 2000*
- *Gas Safety Regulation 2001*
- *Planning and Development Act 2007*
- *Planning and Development Regulation 2008*
- *Surveyors Act 2007*
- *Unit Titles Act 2001*
- *Unit Titles Regulation 2001*.

Part 2 Building Act 2004

4 Exemption assessment applications Section 14 (4)

substitute

- (4) A regulation may prescribe—
- (a) information required to be shown in plans under subsection (2); and
 - (b) requirements with which the plans must comply.

5 Exemption assessments and notices New section 14B (2A)

insert

- (2A) A regulation may prescribe—
- (a) any document that must be attached to the exemption assessment B notice; and
 - (b) information required to be shown in the document.

Part 3 Construction Occupations (Licensing) Act 2004

6 Registrar's functions Section 104 (1) (d) (ii)

omit

7 Section 104 (3)

omit

8 Codes of practice Section 104A (3)

substitute

- (3) An approved code of practice is a notifiable instrument.

Note 1 A notifiable instrument must be notified under the Legislation Act.

Note 2 An amendment or repeal of an approved code of practice is also a notifiable instrument (see Legislation Act, s 46 (2)).

Part 4 Electricity Safety Act 1971

9 Dictionary, definition of *electrical installation*

substitute

electrical installation—

- (a) means electrical wiring or cable used or for use in carrying or controlling electricity (other than electricity with a voltage of not more than 50V a.c. or 120V ripple-free d.c.), including the following:
- (i) a wiring system, switchgear, control gear, generator, electrical accessory, electrical appliance, or fitting, that is used or for use in the conversion, storage, transmission, distribution, generation or use of electrical energy and connected to wiring or cable;
 - (ii) a switch, fuse, plug, socket outlet, lighting outlet, adaptor, ceiling rose or other device associated with wiring, a switchboard, or an appliance, mentioned in subparagraph (i);
 - (iii) a consuming device in which electricity is converted into heat, motion or another form of energy, or is substantially changed in its electrical character;
 - (iv) support for electrical wiring or cable; but
- (b) does not include—
- (i) a portable generator or storage device supplying, or for the supply of, electricity to the installation; or
 - (ii) an appliance that receives, or is intended to receive, its main electricity supply through a socket connection; or
 - (iii) a lamp; or

- (iv) an electricity network or part of a network; or
- (v) telecommunications cabling or equipment that operates or is intended to operate at a voltage of 90V a.c. or lower.

10 Dictionary, new definition of *generator*

insert

generator includes a generator that generates electricity from any energy source.

Examples—energy source

- 1 the sun
- 2 diesel fuel
- 3 gas
- 4 wind

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Part 5 Gas Safety Act 2000

11 Codes of practice Section 65 (2)

substitute

- (2) A code of practice may do the following:
- (a) apply an instrument as in force from time to time;
 - (b) set out practices, standards and other matters about—
 - (i) the safe installation, connection, repair, maintenance or operation of consumer piping systems or appliances; or
 - (ii) notifications and certifications on completion of any gasfitting work or appliance work.

Note A statutory instrument may also apply, adopt or incorporate (with or without change) a law or instrument (or a provision of a law or instrument) as in force at a particular time (see Legislation Act, s 47 (1)).

12 Section 65 (5)

omit

planning and land authority

substitute

construction occupations registrar

13 Section 65 (5) (a)

omit

chief planning executive

substitute

construction occupations registrar

14 Dictionary, note 2

insert

- construction occupations registrar

Part 6 Gas Safety Regulation 2001

15 References to Australian Gas Association standards and codes Section 4A

omit

16 Sections 18D and 18E

omit

the Australian Gas Association Standard AG 501
(Australian Standard 3814)

substitute

AS 3814

17 Serious gas accidents—prescribed amount Section 20

omit

\$2 000

substitute

\$5 000

18 Place for keeping records—Act, s 19 (2) (b) and s 65 (5) (b) Section 21

omit

19 Dictionary, note 2

insert

- AS

20 Dictionary, definitions of *type A appliance* and *type B appliance*

substitute

type A appliance—see AS 5601.

type B appliance—see AS 5601.

Part 7 Planning and Development Act 2007

21 Limited consultation Section 90 (2) (c)

omit

representations

substitute

written comments (*consultation comments*)

22 New section 90 (2) (d) and (2A)

insert

- (d) states that a copy of any consultation comments made under paragraph (c) will be made available for inspection for at least 15 working days starting on the day after the period under paragraph (c) ends, at stated places.

Note Sections 411 and 412 apply to a person who makes consultation comments under this section.

- (2A) The planning and land authority must make the documents mentioned in subsection (2) (b) and (d) available for inspection as mentioned in the notice.

23 Section 90 (3)

omit

representations

substitute

consultation comments

24 Section 90 (5) (a)

omit

representation

substitute

consultation comments

**25 What is an exempt development?
Section 133, note 2**

omit

planning and development authority

substitute

planning and land authority

**26 Exemption assessment applications
New section 138B (2) (a) (ia)**

insert

- (ia) the number of copies of the plans prescribed by regulation; and

27 Exemption assessments and notices
Section 138D (2) (b)

substitute

- (b) issue a notice (an *exemption assessment D notice*) stating—
- (i) whether the development is an exempt development under section 133; and
 - (ii) anything else prescribed by regulation; and

28 Section 138D, note

omit

planning and development authority

substitute

planning and land authority

29 Form of development applications
New section 139 (3A) to (3C)

insert

- (3A) A regulation may prescribe the requirements for an assessment mentioned in subsection (2) (1) (i).
- (3B) The Minister may make guidelines for the preparation of an assessment mentioned in subsection (2) (1) (i).
- (3C) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

**30 Notice of approval of application
Section 170 (2) and (3) and note**

substitute

- (2) A notice under subsection (1) in relation to an approval must—
- (a) contain the following:
 - (i) a description of the place to which the approval relates;
 - (ii) a brief description of the development to which the approval relates; and
 - (b) state the assessment track that applied to the development proposal to which the approval relates; and
 - (c) state the date the development application was lodged; and
 - (d) state the date the development application was approved; and
 - (e) state the date the approval takes effect; and
- Note* For date of effect of an approval, see div 7.3.9.
- (f) state whether the approval is subject to conditions; and
- Note* For approvals subject to conditions, see s 165.
- (g) state the place where, and times when, a copy of the development application and the approval may be inspected; and
 - (h) contain anything else prescribed by regulation.
- (3) A notice to an applicant under subsection (1) (a) or another person under subsection (1) (d) must—
- (a) set out the decision and the reasons for the approval; and
 - (b) if the approval is subject to conditions—set out the conditions; and

Note For approvals subject to conditions, see s 165.

- (c) if the development application has been referred to a prescribed entity under division 7.3.3—set out a summary of the entity’s advice given under section 149 and any response by the planning and land authority; and
- (d) contain anything else prescribed by regulation.

Note If the notice is given to a person who may apply to the ACAT for review of the decision to which it relates, the notice must be a reviewable decision notice (see s 408 (2)).

31 Sections 184 to 187

omit

the ACAT or

**32 Restrictions on public availability—comments, applications, representations and proposals
New section 411 (1) (aa)**

insert

- (aa) a person who makes consultation comments on a proposed technical amendment; or

33 Section 411 (2), definition of *relevant document*, new paragraph (aa)

insert

- (aa) in relation to a person who makes consultation comments on a proposed technical amendment—the consultation comments; or

34 **Restrictions on public availability—security**
Section 412 (5), definition of *relevant document*, new paragraphs (ba) and (bb)

insert

- (ba) a proposed technical amendment;
(bb) consultation comments on a proposed technical amendment;

35 **Dictionary, definition of *public consultation period***

substitute

public consultation period, for a draft EIS—see section 218.

36 **Dictionary, new definition of *public notification period***

insert

public notification period, for a development application—see section 157.

37 **Further amendments, mentions of *consultation***

omit

consultation

substitute

notification

in

- section 125
- sections 153 to 157
- section 169

Part 8 Planning and Development Regulation 2008

38 Public consultation period—Act, s 157, def *public consultation period*, par (a)
Section 28 heading

omit

consultation

substitute

notification

39 Content of scoping documents—Act, s 213 (1)
Section 54 (3)

omit

Part 9 Surveyors Act 2007

40 Section 49

substitute

49 Only surveyors to carry out surveys

A person commits an offence if the person—

- (a) carries out a survey; and
- (b) is not a surveyor, or supervised by a surveyor, when the survey is carried out.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Note The register-general may issue directions for the supervision of people assisting surveyors under s 55.

Part 10 Unit Titles Act 2001

41 Unit title applications—general requirements Sections 17 (4) and (5) and note

substitute

- (4) The application must include—
- (a) if the parcel is prescribed by regulation—a unit title assessment report that is not more than 3 months old; and
 - (b) a plan prepared by a registered surveyor showing anything prescribed by regulation.

Note **Unit title assessment report**—see s 22B.

- (5) If the application provides for a staged development, it must include—
- (a) a development statement prepared in accordance with the regulations; and
 - (b) on the completion of each stage of the development, the documents mentioned in subsection (4).
- (6) In this section:
- stage**, of a development, means a stage identified in the development statement.

42 Unit title applications—approval New section 20 (1A)

insert

- (1A) If a unit title application provides for staged development, the planning and land authority may approve a stage of the development (a **development stage**) as if the stage were a unit title application.

43 Section 20 (2)

omit

unit title application that provides for a staged development

substitute

development stage

44 Section 20 (2) (b)

omit

first

substitute

development

45 Section 20 (8), definition of *first stage*

substitute

stage, of a staged development, means a stage identified in the development statement.

Part 11 Unit Titles Regulation 2001

46 Unit title assessment report—contents—Act, s 22B (5) (a) New section 2D (1) (c) (ia)

insert

- (ia) the licence number;

47 Section 2D (1) (i)

omit

other than a condition that applied only in the construction stage of the development

substitute

in relation to the completed development

48 Section 2D (2)

substitute

- (2) If the unit title assessment report is in relation to a stage of a staged development, the unit title assessor need only report on those matters mentioned in subsection (1) that relate to the stage.

49 Section 2D (3), new definition of *stage*

insert

stage, of a development, means a stage identified in the development statement.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 31 March 2011.

2 Notification

Notified under the Legislation Act on 6 July 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Planning and Building Legislation Amendment Bill 2011, which was passed by the Legislative Assembly on 28 June 2011.

Acting Clerk of the Legislative Assembly

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