

Building (General) (Alternative requirements for unaltered parts) Determination 2023 (No 1)

Disallowable instrument DI2023–69

made under the

Building (General) Regulation 2008, s 24 (Unaltered parts need not comply with building code if alternative requirements met—Act, s 29 (2) (b))

1 Name of instrument

This instrument is the *Building (General) (Alternative requirements for unaltered parts) Determination 2023 (No 1)*.

2 Commencement

This instrument commences on 1 May 2023.

3 Application

This instrument replaces previous sections 24, 25, 26, 27, 28, 29 of the *Building (General) Regulation 2008* effective from 1 May 2023.

Schedule 1 of this instrument applies to:

- a. All building approvals determined on or after 1 May 2023
- b. All building work that does not require a building approval started on or after 1 May 2023.

4 Alternative requirements

I determine schedule 1 to this instrument to be the alternative requirements for an unaltered part.

Note 1 The Act, s 136, provides that the building code means a document prescribed by regulation, and the Building Code of Australia, prepared and published by the Australian Building Codes Board, as amended from time to time by that Board, and the ACT Appendix to the building code.

Note 2 The Building Code of Australia is contained in Volumes 1 and 2 of the National Construction Code.

5 Disapplication of notification requirement

The *Legislation Act 2001*, section 47 (5) does not apply to this instrument.

Note 1 Australian Standards are available for purchase at www.standards.org.au and are available for inspection by members of the public at the National Library of Australia.

Note 2 A copy of the National Construction Code is freely available for inspection at www.abcb.gov.au.

Rebecca Vassarotti MLA
Minister for Sustainable Building and Construction
28 April 2023

Schedule 1

Alternative Requirements to the Building Code for Unaltered Parts of Substantially Altered Class 1, 10a or 10b Buildings

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DEFINITIONS

(1) In this determination:

- (a) **R-value** means the thermal resistance (m^2K/W) of a component worked out by dividing its thickness by its thermal conductivity.
- (b) **flight** means part of a stair with a continuous series of risers, including risers of winders, not interrupted by a landing or floor.
- (c) **going** means the horizontal dimension from the front to the back of a tread, less any overhang from the next tread above.
- (d) **riser** means the height between the consecutive treads.
- (e) **tapered tread** means a stair tread with a walking area that becomes smaller towards 1 end of the stair.
- (f) **winders** means treads within a straight flight that are used to change the direction of the stair.
- (g) **glazing** includes frame assemblies and transparent and translucent roof lights.
- (h) **isolated glazing** means glazing in the unaltered part of a building that is thermally isolated from glazing in the altered part of the building by a barrier of—
 - (i) unperforated floors, ceilings or walls; and
 - (ii) doors that are close-fitting (but not necessarily sealed).

Example—par (ii)

internal French doors installed in ordinary door frames and to ordinary construction tolerances, without additional door seals or draft excluders

- (iii) solar heat gain coefficient means the fraction of incident irradiance on glazing that adds heat to the space inside a building.
- (iv) total U value means transmittance ($W/m^2.K$) of the composite element allowing for the effect of any airspace and associated surface resistance.

GLAZING SAFETY

(2) Glazing in the unaltered part must comply with human impact safety requirements—

- (i) the building code, NCC 2022, volume 2, cl H1P1(4); or
- (ii) The unaltered part of a substantially altered building complies with the alternative glazing requirements if any intact glazing that would be required to be replaced for the part to comply with the building code, volume 2, NCC 2022 cl H1P1(4) is coated, and permanently bonded, on at least 1 side with a continuous polymeric coating, sheet or film.

ANCILLARY PROVISIONS AND ADDITIONAL CONSTRUCTION REQUIREMENTS

- (3) The unaltered part must comply with each of the following:
- (a) for building in bush fire prone areas—the building code, NCC 2022 volume 2, cl H7P5;
 - (b) for swimming pool safety—the building code, NCC 2022 volume 2, cl H7P1 and cl H7P2;

FIRE SAFETY

- (4) The unaltered part must comply with the installation of smoke alarms and evacuation lighting as per the building code, NCC 2022 volume 2, cl H3D6.

ENERGY EFFICIENCY

- (5) The unaltered part of a substantially altered building that is a class 1, class 10a or class 10b building need not comply with the building code as a whole if the unaltered part complies with each of the following:
- (a) for sealing of roof lights—the building code, NCC 2019 volume 2, part 3.12.3.2;
 - (b) for sealing external windows and doors—the building code, NCC 2019 volume 2, part 3.12.3.3;
 - (c) for sealing exhaust fans—the building code, NCC 2019 volume 2, part 3.12.3.4;
 - (d) for minimizing air leakage from roofs, walls and floors—the building code, volume 2, part 3.12.3.5;
- (6) In addition to the requirements under subsection (5), the unaltered part of a substantially altered building that is a class 1, class 10a or class 10b building need not comply with the building code as a whole if there is compliance with each of the following:
- (a) for the walls—
 - (i) the building code, NCC 2019 volume 2, part 3.12; or
 - (ii) if that part cannot be complied with using the most common materials and techniques without damaging part of the building
 - (A) the external walls in the unaltered part have insulation with an added R-value that complies with the applicable value stated in the building code, NCC 2019 volume 2, part 3.12.1.4 (External walls);
 - (b) for walls in the unaltered part if—

- (i) complying would require the removal of more than 10% of wall linings, or cladding, in the part; or
 - (ii) there is insufficient wall cavity space to accommodate enough thermal insulation material to achieve the R-value mentioned in section 6 (a);
- (c) for the roof—
- (i) the building code, NCC 2019 volume 2, part 3.12; or
 - (ii) if that part cannot be complied with using the most common materials and techniques without damaging part of the building
 - (iii) the roof in the unaltered part has a total R-value that complies with the applicable value stated in the building code, NCC 2019 volume 2, part 3.12.1.2 (Roofs), adjusted as required under that part to compensate for insulation loss associated with any exhaust fans, flues or recessed down lights;
- (d) for the roof in the unaltered part if—
- (i) complying would require the removal of more than 10% of the part's roofing; or
 - (ii) there is insufficient roof cavity space to accommodate enough thermal insulation material to achieve the R-value in section 6 (c);

Example—par d

ceiling insulation is not able to be installed in a required area for structural reasons such as a cathedral ceiling

- (e) for a suspended floor (excluding an intermediate floor in a building with more than 1 storey)—
- (i) the building code, NCC 2019 volume 2, part 3.12; or
 - (ii) if that part cannot be complied with using the most common materials and techniques without damaging part of the building
 - (A) in the unaltered part has a total R-value that complies with the applicable value stated in the building code, NCC 2019 volume 2, part 3.12.1.5 (Floors);
 - (B) any interface between a wall cavity and a suspended floor (excluding an intermediate floor in a building with more than 1 storey)—
 - a. is continuously bridged with bulk thermal insulation of loose mineral, glass or plastic fibres preventing convection air movement from the sub-floor area through the wall cavity to the roof space; or
 - b. otherwise has a convection barrier that complies with the building code, NCC 2019 volume 2, part 3.12.1.5 (Floors)

- (f) for thermal insulation of a suspended floor (excluding an intermediate floor in a part with more than 1 storey) in the unaltered part if—
 - (i) complying would require the removal of more than 10% of the flooring in the part; or
 - (ii) there is insufficient sub-floor space to accommodate enough thermal insulation material to achieve the R-value mentioned in section 6 (e) while maintaining a gap of not less than 100mm between the insulation material and the ground;
- (g) for barriers to prevent convection between wall cavities and areas enclosed underneath a suspended floor (excluding an intermediate floor in a part with more than 1 storey) in the unaltered part if—
 - (i) complying would require the removal of more than 1m² of wall or flooring in the part to gain access to the sub-floor area; or
 - (ii) there is insufficient work space for a person to install the barrier;
- (h) for a suspended floor—any suspended floor (excluding an intermediate floor in a building with more than 1 storey) in the unaltered part has a total R-value that complies with the applicable value stated in the building code, NCC 2019 volume 2, part 3.12.1.5 (Floors);
- (i) any interface between a wall cavity and a suspended floor (excluding an intermediate floor in a building with more than 1 storey) in the unaltered part if—
 - (i) is continuously bridged with bulk thermal insulation of loose mineral, glass or plastic fibres preventing convection air movement from the sub-floor area through the wall cavity to the roof space; or
 - (ii) otherwise has a convection barrier that complies with the building code, NCC 2019 volume 2, part 3.12.1.5 (Floors).
- (j) for insulation of any heating water piping service as stated in the building code, NCC 2019 volume 2, parts 3.12.5.2 (Central heating water piping) or heating or cooling ductwork service 3.12.5.3 (Heating and cooling ductwork) in the unaltered part that is inaccessible if—
 - (i) complying would require the removal of more than 1m² of roofing, ceiling, wall or flooring in the part to gain access to all the inaccessible services; or
 - (ii) there is insufficient work space for a person to install the insulation;
- (k) for electric resistance space heating elements cast into concrete or set under tiles—complying with the building code, NCC 2019 volume 2, part 3.12.5.4 would involve physical changes to the elements or to do so would require destruction of the structure in the unaltered part.

- (7) External glazing in the unaltered part of a class 1 or class 10a building need not comply with the building code, NCC 2019 volume 2, part 3.12.2 (External Glazing) if the transparent or translucent part of the glazing is coated, and permanently bonded, on at least 1 side with a continuous polymeric coating, sheet or film that achieves—
- (a) a total U value of 5.0 or less; and
 - (b) a solar heat gain coefficient of 0.25 or less.
- (8) Isolated glazing in the unaltered part of a class 1 or class 10a building need not comply with the building code, NCC 2019 volume 2, part 3.12.2 (External glazing).

STAIRS

- (9) The stair construction in the unaltered part must comply with either of the following:
- (a) the building code, NCC 2022 volume 2, cl H5D2 (Stairway and ramp construction); or
 - (b) The unaltered part of a substantially altered building complies with the alternative stair requirements if it complies with each of the following:
 - (i) the dimensions of goings and risers (other than winders and tapered treads in a spiral stair) are constant throughout each stair flight;
 - (ii) winder dimensions are constant throughout the stair flight;
 - (iii) for a spiral stair—tapered tread dimensions are constant throughout the flight;
 - (iv) riser dimensions are not taller than 250mm;
 - (v) if the stairway is more than 10m high or connects more than 3 storeys—the treads are of solid construction (for example, not mesh or other perforated material);
 - (vi) a 125mm ball cannot pass between the treads of a riser opening;
 - (vii) all treads have a slip-resistant finish or a suitable non-skid strip near the edge of the nosings;
 - (viii) if the stair flight is more than 1m high and does not comply with the building code, NCC 2022 volume 2, cl H5D2, whether or not it is required to comply with the part—
 - (A) the stairway has handrails; and

- (B) the handrails comply with the building code, NCC 2022 volume 1, cl D3D22 (which is about handrails), whether or not they are required to comply with the part.

BARRIERS AND HANDRAILS

- (10) The construction of barriers and handrails in the unaltered part must comply with either of the following:
- (a) the building code, NCC 2022 volume 2, cl H5D3; or
 - (b) has a barrier that:
 - (i) previously complied with the building code or relevant requirements; and
 - (ii) is installed so that a person breaching the barrier could not fall more than 4m measured from the lowest part of the balustrade at the point where the balustrade is breached.