

Australian Capital Territory

Building (ACT Appendix to the Building Code of Australia) Determination 2008

Disallowable instrument DI 2008-202

made under the

Building Act 2004, s 136 (2) (Building code)

EXPLANATORY STATEMENT

Background and Outline

Section 136 of the *Building Act 2004* (the Act) gives effect to the Building Code of Australia and the ACT Appendix to the Building Code of Australia. The Building Code of Australia (the Code) applies throughout Australia and is divided into two volumes. Volume 1 deals with class 2 to class 9 buildings. Volume 2 deals with class 1 and class 10 buildings. Each volume consists of a main text and a group of appendices for each State and Territory. The Building Code of Australia, containing the State and Territory appendices, is published annually by the Australian Building Codes Board.

The 2008 Appendix amends the 2005 appendix by deleting requirements for the removal and handling of asbestos based materials. Until 2006 the ACT dealt with aspects of asbestos handling through these provisions. The provisions were superseded in 2006 by amendments to the Dangerous Substances Act 2004 and are now superfluous.

The requirements for health and amenity are removed from the Appendix in Volume 1, and have been incorporated into the main part of the BCA at Section F. These provisions relate to health and safety requirements for swimming pools.

In Volume 2, the requirements for swimming pools are now incorporated under the heading '*health and amenity*' rather than '*safe movement and access*', as was the case in the 2005 Appendix. The substance of the requirements has not been amended.

The requirements for energy efficiency are removed from the Appendix in Volume 2. These were superseded by new provisions included in the main part of the BCA in 2006 which increased the energy performance requirement for class 1 dwellings.

In each of the 2008 ACT Appendices for Volumes 1 and 2, the list of other relevant legislation has been updated, and the name of the relevant administering agency for that legislation added.

Provisions of the Determination

Clause 1 The Building (ACT Appendix to the Building Code of Australia) Determination 2008 revokes the previous instrument determining the ACT Appendix to the Building Code of Australia.

Clause 2 Determines a new ACT Appendix to the Building Code of Australia.

Clause 3 The determination provides that for the purposes of this determination, sections 47 (5) of the *Legislation Act 2001* does not apply. This clause removes the requirement for the text of the ACT Appendix to the Building Code of Australia to be notified. Doing so would impinge on copyright as the Appendices to the Building Code of Australia are published by the Australian Building Codes Board (ABCB), the copyright owner.

Clause 4 In order for the Appendix to be accessible for inspection by the public, it must be made available at the Planning and Land Authority shopfront at Dame Pattie Menzies House, 16 Challis Street, Dickson.

Clause 5 The determination commences on the day after notification.