

Construction Occupations (Licensing) Unit Title Unit Fitness Assessment Code of Practice 2016

Disallowable instrument DI2016–245

made under the

Construction Occupations (Licensing) Act 2004, section 126A (Codes of Practice)

EXPLANATORY STATEMENT

This instrument approves the Construction Occupations (Licensing) Unit Title Unit Fitness Assessment Code of Practice 2016.

The approved code replaces the *Constructions Occupations (Licensing) Unit Title Unit Fitness Assessment Code of Practice 2010* (NI2010-632). There are no changes to the content of the code.

This code is to prescribe requirements for assessing certain aspects of buildings to help determine their fitness for separate occupancy as units under the Unit Titles Act 2001, and, in some cases, to provide assessment methodologies.

Fitness for separate occupancy requires examination of 2 main aspects—

- fitness for occupancy of the proposed units generally
- fitness for occupancy of each proposed unit if the respective subdivision takes place, creating unit title for each proposed unit.

Background

On 2 August 2016, the Legislative Assembly passed the Building and Construction Legislation Amendment Bill 2016, which was notified as an Act (the amending Act) on 19 August 2016. http://www.legislation.act.gov.au/b/db_54056/default.asp

Amendments to the *Construction Occupations (Licensing) Act 2004* change the maker and the form of an approved code of practice. The amending Act omits Section 104A, under which the Construction Occupations Registrar approved codes of practice as notifiable instruments, and inserts new section 126A, *Codes of practice*. Under section 126A, the Minister approves codes of practice. An approval is now a disallowable instrument.

The codes in place directly before the commencement are not taken to be codes made under section 126A, as they were not approved by disallowable instrument and subject to Assembly consideration.

Therefore, the amending Act repeals the following codes of practice:

- *Construction Occupations (Licensing) Building Energy Efficiency Assessment Sale and Lease of Residential Premises Code of Practice 2012 (No 1)* (NI2012-228)
- *Construction Occupations (Licensing) Unit Title Landscaping Works Assessment Code of Practice 2010* (NI2010-529)
- *Construction Occupations (Licensing) Unit Title Site Assessment Code of Practice 2010 (No 2)* (NI2010-582)
- *Constructions Occupations (Licensing) Unit Title Unit Fitness Assessment Code of Practice 2010* (NI2010-632).

This instrument makes a new Unit Title Landscaping Unit Fitness Assessment Code of Practice 2016 to replace the repealed code.

Regulatory Impact Analysis

Regulatory impact analysis for this code of practice is not required under the Legislation Act. Licensing of works assessment was introduced by the *Planning and Building Legislation Amendment Act 2011*(A2011-23)

<http://www.legislation.act.gov.au/a/2011-23/20110707-48664/pdf/2011-23.pdf> .

Impact analysis was carried out prior to the introduction of the associated Bill.

This code of practice does not introduce new requirements for preparing an assessment. It makes a new code with the same contents as the code it replaces (Constructions Occupations (Licensing) Unit Title Unit Fitness Assessment Code of Practice 2010 (NI2010-632))) as a result of legislative changes that change the form of an approval from a notifiable instrument to a disallowable instrument.

The Explanatory Statement for the amending Act notes the intention for the repealed codes to be remade under section 126A.

http://www.legislation.act.gov.au/es/db_54057/default.asp