

Australian Capital Territory

Building and Construction Legislation Amendment Regulation 2023 (No 2)

Subordinate law SL2023-23

made under the

Building Act 2004

EXPLANATORY STATEMENT

This explanatory statement relates to the *Building and Construction Legislation Amendment Regulation 2023 (No 2)* (the **regulation**) as made by the Executive. It has been prepared to assist the reader of the regulation and to help inform debate on it. It does not form part of the regulation and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the regulation. It is not, and is not meant to be, a comprehensive description of the regulation. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

On 15 September 2023, the Minister for Sustainable Building and Construction, Rebecca Vassarotti MLA, announced that the ACT will now be adopting the energy efficiency, condensation mitigation and livable (accessible) housing provisions in the 2022 edition of the National Construction Code (the *NCC*) from 15 January 2024. The ACT had originally planned to adopt these provisions on 1 October 2023.

This regulation amends the *Building and Construction Legislation Amendment Regulation 2023 (No 1)* which contained amendments due to commence on 1 October 2023 to support the planned adoption of NCC 2022 in the ACT.

This regulation removes those amendments due to the delay in the adoption of NCC 2022 and amendments proposed to the related Act provision in the Building and Construction Legislation Amendment Bill 2023.

Regulatory Impact Statement

A regulatory impact statement is not required as the regulation does not impose any appreciable costs on the community, or part of a community under section 34 (1) of the *Legislation Act 2001*.

Offences and Penalties

The regulation does not introduce any new offences or penalties.

Consistency with Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts of subordinate legislation, among other matters. There are no human rights impacts related to this regulation. The regulation does not engage with human rights under the *Human Rights Act 2004*.

Scrutiny Committee Principles

The regulation is consistent with Scrutiny Committee (the Committee) principles.

- The regulation does not unduly trespass on rights previously established by law.
- The regulation does not contain matters which should properly be dealt with in an Act of the Legislative Assembly.

Clause Notes

Clause 1 Name of regulation

This clause provides that the name of the regulation is the *Building and Construction Legislation Amendment Regulation 2023 (No 2)*.

Clause 2 Commencement

This clause provides that the regulation commences on the day after notification.

Clause 3 Legislation amended

This clause provides that the regulation amends the *Building and Construction Legislation Amendment Regulation 2023 (No 1)*.

Clause 4 Section 2 (1)

This clause omits the words ‘other than section 7’ from section 2 (1) of the *Building and Construction Legislation Amendment Regulation 2023 (No 1)*

Clause 5 Section 2 (2)

This clause omits section 2 (2) which has the effect of ceasing the commencement of amendments to section 44AA of the *Building (General) Regulation 2008* in the *Building and Construction Legislation Amendment Regulation 2023 (No 1)*.

Clause 6 Section 7

This clause omits section 7 of the *Building and Construction Legislation Amendment Regulation 2023 (No 1)*.

Section 7 contained amendments to section 44AA of the *Building (General) Regulation 2008* to support the adoption of the energy efficiency provisions in NCC 2022 from 1 October 2023.

A future regulation will be progressed to support adoption of the energy efficiency provisions in NCC 2022 in the ACT from 15 January 2024.