

**2025**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**BUILDING AND CONSTRUCTION LEGISLATION AMENDMENT BILL 2025**

**EXPLANATORY STATEMENT  
and  
HUMAN RIGHTS COMPATIBILITY STATEMENT  
(*Human Rights Act 2004, s 37*)**

**Presented by  
Mr Chris Steel MLA  
Minister for Planning and Sustainable Development**

# **BUILDING AND CONSTRUCTION LEGISLATION AMENDMENT BILL 2025**

This explanatory statement (the *statement*) relates to the Building and Construction Legislation Amendment Bill 2025 (the **Bill**) as presented to the ACT Legislative Assembly. It has been prepared to assist the reader. It does not form part of the Bill, has not been endorsed by the Assembly.

The statement is to be read in conjunction with the Bill. It is not and is not intended to be a comprehensive description of the Bill. What is said about a provision is not to be taken as providing a definitive interpretation of the meaning of a provision, this being a task for the courts.

The Bill has not been declared a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

## **OVERVIEW OF THE BILL**

The Bill includes amendments to ensure that the ACT's building and construction regulatory system is fit for purpose and delivers accountability, appropriate regulatory oversight and compliance activities to address defects at the earliest point in the construction cycle. The Bill contains minor and technical amendments to improve the administration of the ACT's building and construction regulatory system.

The Bill amends the following legislation:

- *Building Act 2004*
- *Building (General) Regulation 2008*
- *Construction Occupations (Licensing) Act 2004*
- *Gas Safety Act 2000*
- *Gas Safety Regulation 2001*
- *Property Developers Act 2024*
- *Water and Sewerage Act 2000*
- *Water and Sewerage Regulation 2001*.

The Bill:

- establishes a compliance framework for regulation of medical gas systems;
- imposes offences for failing to comply with the regulatory framework for medical gas systems;
- updates the ACT's building regulatory system to reflect current drafting practices and administrative processes reducing administrative burden on Government and industry.

## **CONSULTATION ON THE PROPOSED APPROACH**

Stakeholders consulted include the Justice and Community Safety Directorate, ACT Health; Canberra Health Services; the Chief Minister, Treasury and Economic Development Directorate including Access Canberra and the Construction Occupations Registrar.

## **CONSISTENCY WITH HUMAN RIGHTS**

During the development of the Bill, due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (the **HR Act**).

An assessment of the Bill against section 28 of the HR Act is provided below. Section 28 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

The Bill engages the following sections of the HR Act:

- Section 9 – Right to life (promoted)
- Section 12 – Privacy and reputation (limited)
- Section 22 – Rights in criminal proceedings (limited).

### ***Rights Promoted***

#### **Right to life – regulation of medical gas systems**

The right to life is a fundamental human right enshrined in the HR Act, which emphasises the importance of protecting individuals from risks that may threaten their health, safety, and overall well-being. In the context of medical gas systems, there are significant risks associated with improper installation and maintenance, particularly if such actions do not comply with relevant legislation and Australian Standards. As evidenced by two tragic incidents in New South Wales in 2015 and 2016, where infants were mistakenly administered nitrous oxide instead of oxygen in a hospital setting, leading to one fatality and one serious injury.

In certain situations, the right to life obligates the ACT Government to take proactive measures to safeguard individuals from real and immediate threats to their safety. The Bill promotes the right to life by enhancing the medical gas regulation scheme established by the *Building and Construction Legislation Amendment Act 2023*. This Bill establishes appropriate compliance mechanisms that support safe and effective practices in this critical area. This Bill includes medical gas systems in existing compliance mechanisms in the *Gas Safety Act 2000* such as requiring certificates of compliance and offences in relation to unsafe medical gas systems. Compliance mechanisms are directed towards the licensed professionals undertaking installation and maintenance of medical gas systems. This Bill establishes a robust legal and administrative framework aimed at safeguarding the community by ensuring that medical gas systems are installed safely, reliably, and competently.

### ***Rights Limited***

#### Right to privacy and reputation

Under section 12 of the HR Act, everyone has the right not to have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily.

The right to privacy also protects against arbitrary interference relating to an individual, an individual's family, home or correspondence, even when authorised by law. Such interference should be in accordance with the provisions, aims and objectives of the HR Act and be reasonable in the particular circumstances. Arbitrary interference in someone's private or family life is interference that may be lawful, but is unreasonable, unnecessary and the degree of interference is not proportionate to the need.

The protection of privacy is necessarily relative, and personal information should only be collected where it is in the interests of the community. The right to privacy is therefore not absolute and may be reasonably limited by laws which can be demonstrably justified in a free and democratic society.

#### ***Nature of the right and the limitation (s28 (a) and (c))***

The Bill engages the right to privacy through:

1. providing for the sharing of *public safety information* with ACT Health which is being included in the information sharing provisions in the *Construction Occupations (Licensing) Act 2004* as a *public safety agency*;
2. providing inspectors under the *Gas Safety Act 2000* with right of entry powers in relation to medical gas systems.

These provisions limit the right to privacy through the collection, storage, use and disclosure of personal information and entry onto premises that may be a person's place of residence.

### ***Legitimate purpose (s28 (b))***

The legitimate objective of this limitation is to:

- build community confidence in the building and construction industry
- protect the community by regulating medical gas systems.

### ***Rational connection between the limitation and the purpose (s28 (d))***

The expansion of information sharing provisions in part 11AA of the *Construction Occupations (Licensing) Act 2004* to include ACT Health as a public safety agency is necessary to allow significant safety risks that come to the attention of the Construction Occupations Registrar to be passed on to ACT Health for any necessary action which protects the community and consumers from the potential significant risks that can arise from unsafe medical gas systems.

Expanding the right of entry powers of inspectors appointed under the *Gas Safety Act 2000* to medical gas systems is necessary for the effective enforcement of the regulatory scheme, which protects the community and consumers from the potential significant risks that can arise from unsafe medical gas systems.

### ***Proportionality (s28 (e))***

Information sharing provisions in Part 11AA of the *Construction Occupations (Licensing) Act 2004* are limited to *public safety information* and sharing of that information between public safety agencies. The Bill includes ACT Health as a public safety agency to support the sharing of information in relation to medical gas systems where there is a situation that presents, or is likely to present, a risk of death or injury to a person, significant harm to the environment or significant damage to property, that is disclosed to, or obtained by, a public safety agency because the agency is, or has been, a public safety agency. This could include personal information. These information sharing provisions are intended to allow significant safety risks that come to the attention of the Construction Occupations Registrar to be passed on to ACT Health, as this directorate has the appropriate and relevant functions and powers, to address the risk.

It is necessary for the Bill to include these information sharing provisions noting the potential significant risks to health, safety and the economic wellbeing of individuals and the broader community resulting from unsafe medical gas systems.

The expansion of powers of entry to premises for inspectors appointed under the *Gas Safety Act 2000* to medical gas systems are only those necessary for the effective enforcement of the regulatory scheme established by the *Gas Safety Act 2000*, the *Gas Safety Regulation 2001* and the Construction Occupations Licensing Framework.

The powers established by this Bill are both necessary and proportionate to the potential significant risks that can arise from unsafe medical gas systems.

Safeguards to these powers include an inspector appointed under the *Gas Safety Act 2000* include:

- an inspector must not remain on premises entered, if on request by the occupier, the inspector does not produce the inspector's identity card;
- an inspector must obtain consent or a warrant to enter premises;
- the power to require the occupier or anyone at the premises to give information, answer questions or produce documents or other things is limited to that which is reasonably necessary to exercise a function under the Gas Safety legislation.

It is not considered that there are any other means for undertaking effective enforcement and compliance activities to achieve the collective purpose of the provisions, which is to support regulatory oversight. This aims to instil greater consumer confidence in building quality and ensure effective regulatory oversight , consistent with the principles enshrined in the HR Act.

The HR Act permits reasonable and justifiable limitations on human rights; therefore, the requirements in the Bill are designed to be the least restrictive option. Adequate safeguards are in place to ensure that any limitation on the right to privacy is reasonable and justifiable within the context of building quality and safety..

### Rights in criminal proceedings

Section 22 (1) of the HR Act provides that everyone charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. Strict liability offences engage and may limit the right to be presumed innocent until proven guilty as they impose guilt without the need to prove the person's fault.

### ***Nature of the right and the limitation (s28 (a) and (c))***

The Bill may limit rights in criminal proceedings as it

expands four existing offences in the *Gas Safety Act 2000* to cover gasfitting work on medical gas systems. These offences relate to:

- failure by a gasfitter to give each person prescribed by regulation a certificate of compliance certifying that the gasfitting work on a medical gas system has been undertaken in accordance with relevant gas safety legislation and the medical gas system is safe to use (maximum penalty: 50 penalty units);
- failure by a gasfitter to undertake specified action when the carrying out of gasfitting work on a medical gas system, the gasfitter has identified that the system poses a substantial risk to the safety of a person or property (maximum penalty: 50 penalty units);
- failing to give a certificate of compliance in relation to gasfitting work on a medical gas system to the Construction Occupations Registrar and the health care facility where the medical gas system is located (maximum penalty: 10 penalty units); and
- failing to keep a certificate of compliance for a medical gas system for at least 2 years after the day it is signed (maximum penalty: 10 penalty units).

These offences are existing offences that apply to gasfitters when carrying out gasfitting work on consumer piping systems and are being expanded in this Bill to cover medical gas systems to support the inclusion of medical gas systems within the scope of the *Gas Safety Act 2000* from 11 December 2024.

***Legitimate purpose (s28 (b))***

The Bill aims to protect vulnerable members of the community from the dangers posed by unsafe medical gas systems. The impetus for introducing a licensing and regulation scheme stems from two tragic incidents in New South Wales in 2015 and 2016, where infants were mistakenly administered nitrous oxide instead of oxygen in a hospital setting, leading to one fatality and one serious injury. The NSW Chief Health Officer identified these incidents as resulting from improper installation of medical gas pipes, coupled with flawed testing and commissioning processes. Therefore, the Bill seeks to prevent such occurrences through enhanced regulation.

***Rational connection between the limitation and the purpose (s28 (d))***

The expansion of existing regulatory offences in the *Gas Safety Act 2000* is directly connected to the consumer protection measures that are at the core of the new licensing and regulatory scheme for medical gas systems. As with many regulatory frameworks, the inclusion of an offence is considered important in deterring non-compliance. These offences support the effective operation of the new medical gas licensing and regulation scheme as they target licensed professionals engaging in unsafe and unprofessional behaviour.

For a person to commit an offence under the Bill they would be required to be actively involved in the behaviour resulting in the offence and are on notice that the conduct they are engaging in is prohibited.

### ***Proportionality (s28 (e))***

The expansion of existing regulatory offences in the *Gas Safety Act 2000* is proportionate to the risk of unsafe medical gas systems. As an expansion of existing offences on licensed professionals, the inadvertent breach of these offences should be low. There is a high expectation that registered professionals will exercise appropriate skill and care when providing professional services and it is important that this standard is enforced through appropriate penalties to protect the community and deter unsafe behaviours.

Persons covered by regulatory frameworks are provided with adequate information about their obligations under those frameworks and the provisions explicitly state the conduct that is required to commit the offence. Appropriate regulatory actions are essential to building community confidence in the Government's regulation of the building and construction industry and ensure that Government resources are managed in an efficient and cost-effective manner. The ACT Government undertook education and awareness activities across the medical gas industry ahead of the licensing scheme commencing on 11 December 2024.

The offences and associated penalties are consistent with the ACT Government *Guide for Framing Offences* and are considered proportionate to the purpose of the Bill. The maximum penalties attached to the offences reflect the seriousness of the offences and other similar offences across the ACT statute. They also reflect the level of responsibility the person committing the offence has for the conduct that will result in the offence being committed and the potential serious consequences that can arise for the community and consumers of unsafe medical gas systems.

Any breaches of the offence framework will be managed through an 'engage, educate and enforce' compliance process in accordance with the Access Canberra Accountability Commitment Framework which establishes a risk-based approach to taking regulatory action. The Access Canberra Accountability Commitment Framework includes the [Building and construction services compliance framework](#) which is publicly available.

This provides a safeguard to ensure the limitation on rights is reasonable and proportionate. Should a breach occur, conduct that contravenes the legislative framework will be considered on a case-by-case basis and within its own context.

Chapter 2 of the Criminal Code applies to all offences under the *Building Act 2004* and the *Gas Safety Act 2000*. There is a specific defence of mistake of fact for strict



liability offences (section 23 *Criminal Code 2002* (the **Code**)), which preserves the principle that a person is innocent until proven guilty, is available in response to strict liability offences. Section 23 (3) of the Code makes it clear that other defences may also be available for strict liability offences, including the defence of intervening conduct or event (section 39), duress (section 40), sudden or extraordinary emergency (section 41), self-defence (section 42) or lawful authority (section 43).

There are no less restrictive alternatives that can effectively achieve the collective aim of these provisions, which is to enhance the regulation of medical gas systems, thereby ensuring the safety of vulnerable individuals in the ACT. The measures outlined are necessary to instil greater confidence in the quality of medical gas installations and regulatory oversight processes.

## Building and Construction Legislation Amendment Bill 2025

### *Human Rights Act 2004 - Compatibility Statement*

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Building and Construction Legislation Amendment Bill 2025**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

.....  
Tara Cheyne MLA  
Attorney General

## **CLAUSE NOTES**

### **PART 1 Preliminary**

This Part deals with formal matters including commencement.

#### **Clause 1 Name of Act**

This clause provides that the name of the Act is the *Building and Construction Legislation Amendment Act 2025*.

#### **Clause 2 Commencement**

This clause provides for the commencement of the Act. The Bill commences on the day after this Act's notification day.

#### **Clause 3 Legislation amended**

This clause provides that the Act amends the legislation in parts 2 to 9 of the Act which includes:

- *Building Act 2004*
- *Building (General) Regulation 2008*
- *Construction Occupations (Licensing) Act 2004*
- *Gas Safety Act 2000*
- *Gas Safety Regulation 2001*
- *Property Developers Act 2024*
- *Water and Sewerage Act 2000*
- *Water and Sewerage Regulation 2001*

#### **Clause 4 Legislation repealed**

This clause repeals the following statutory instruments consequential on changes at clause 7:

- *Building (Publication of Building Code) Notice 2009 (No 1) (NI2009-196)*
- *Building (Publication of Building Code) Notice 2010 (No 1) (NI2010-216)*
- *Building (Recognised Standard) Declaration 2006 (NI2006-317)*

### **PART 2 Building Act 2004**

This Part contains amendments to the *Building Act 2004* to support additional regulatory oversight of stages of building work to address building defects during construction and other minor and technical amendments to improve the administration of the ACT's building regulatory system and remove unnecessary administrative burden on Government and Industry.

## **Clause 5     Sections 137 to 138**

This clause omits existing sections 137 and 138.

Section 137 places unnecessary administrative burden on the Government and Industry. The ACT Appendix to the Building Code is available on the ACT Legislation Registrar and can be requested from the Government.

Section 138 no longer reflects current practices for publication of the Building Code by the Australian Buildings Code Board and places unnecessary administrative burden on the Government.

Industry is not negatively impacted by the removal of these provisions due to the free online publication of the Building Code by the Australian Buildings Code Board and the publication of the ACT Appendix to the Building Code on the ACT legislation register and existing mechanisms for seeking access to these documents either through the ABCB or the ACT Government.

## **Clause 6     Certified copies of building code Section 139**

This clause makes a minor and technical amendment consequential on the changes in clause 5.

## **Clause 7     Section 139A**

This clause substitutes existing section 139A to clarify the operation of this provision and align with current drafting practices and similar provisions across the ACT's building and construction regulatory system.

This clause retains the current power of the Minister to declare a document as a recognised standard and that that declaration while now take the form of a disallowable instrument rather than a notifiable instrument.

This clause disapplies section 47 (5) and (6) of the *Legislation Act 2001*. This disapplication will allow a consistent approach to the declaration of documents as recognised standards whether copyrighted or not or otherwise publicly available. There may also be instances where it is not practical to publish information due to its volume and inefficient due to it being otherwise publicly available. The Bill supports transparency for processes and decision-making and provides for the use of the ACT Government's planning website to provide easier access to information. This will allow for the community to have easy access to updated information.

This clause requires the Director-General, in circumstances where the Minister has declared a document to be a recognised standard, to make the document (excluding a law or an Australian or Australian/New Zealand Standard) available:

- on the ACT legislation register; or

- available for inspection by anyone without charge during ordinary business hours at an ACT Government office; or
- (accessible) on an ACT Government website or by a link on an ACT Government website.

This approach recognises that a declared recognised standard is relevant to the issuing of building approvals and the requirement to carry out building work in accordance with approved plans. As such recognised standards need to be accessible to people complying the *Building Act 2004* and this includes previous versions. To date the only declared recognised standard is the CodeMark Scheme Rules published by the Australian Building Codes Board from time to time. The ABCB publishes the CodeMark Scheme Rules with a list of all certified products available online. This includes current, suspended, withdrawn and expired certifications.

Australian Standards are subject to copyright, so cannot be published by way of a disallowable instrument. Australian Standards may be purchased at [www.standards.org.au](http://www.standards.org.au).

Australian standards are technical documents that are used by industry to meet building laws. The ACT continues to work with the Australian Building Codes Board (ABCB) to support improved access to Australian Standards referenced in their documentation, system or schemes.

A recognised standard is not enforceable unless it has been made accessible in accordance with the above.

#### **Clause 8     New section 151A**

This clause introduces new section 151A which provides that a regulation made under this Act, may incorporate, apply or adopt (with or without change or modification) a law or an Australian Standard as in force from time to time or another instrument as in force from time to time.

This provision aligns with similar provisions across the ACT's building and construction regulatory system.

This clause disapplies section 47 (5) and (6) of the *Legislation Act 2001*. This disapplication will allow a consistent approach to the application, adoption or incorporation of documents whether copyrighted or not or otherwise publicly available. There may also be instances where it is not practical to publish information due to its volume and inefficient due to it being otherwise publicly available. The Bill supports transparency for processes and decision-making and provides for the use of the ACT Government's planning website to provide easier access to information. This will allow for the community to have easy access to updated information.

This clause requires the Director-General, in circumstances where a regulation incorporates, applies or adopts (with or without change or modification) an instrument (excluding a law or an Australian Standard or Australian/New Zealand Standard), to make the incorporated, applied or adopted instrument available:

- on the ACT legislation register; or
- available for inspection by anyone without charge during ordinary business hours at an ACT Government office; or
- (accessible) on an ACT Government website or by a link on an ACT Government website.

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Australian standards are technical documents that are used by industry to meet building laws. The ACT continues to work with the Australian Building Codes Board (ABCB) to support improved access to Australian Standards referenced in their documentation, system or schemes.

**Clause 9 Regulation—making power  
Section 152 (4) and (5)**

This clause omits existing sections 152 (4) and (5) consequential on the changes at clause 8.

**Clause 10 Dictionary, definition of *recognised standard***

This is a minor and technical amendment to the definition of *recognised standard* and is consequential on the changes at clause 7.

**PART 3 Building (General) Regulation 2008**

This Part contains amendments to the *Building (General) Regulation 2008* to improve the administration of the ACT's building regulatory system.

**Clause 11 Preparation of whole-of-home calculator energy efficiency certificate—Act, s 139C (2)  
Section 44AC (3)**

This clause omits existing section 44AC (3) consequential on the changes at clause 8 of this Bill.

**Clause 12 Non-application of Legislation Act, section 47 (5)  
Section 45**

This clause omits existing section 45 consequential on the changes at clause 8 of this Bill.

**Clause 13 Definitions—sch 3**  
**Schedule 3, section 3.1 (1), definition of *tolerances guide*, notes 1 and 2**

This clause is a minor and technical amendment consequential on the changes at clause 8 of this Bill.

**PART 4 Construction Occupations (Licensing) Act 2004**

This Part makes minor and technical amendments to the *Construction Occupations (Licensing) Act 2004*.

**Clause 14 What is a *construction occupation*?**  
**New section 7 (fa)**

This clause is a minor and technical amendment to address a regulatory oversight where the construction occupation of gas appliance worker was not included in the definition of construction occupation when this construction occupation was introduced into the *Construction Occupations (Licensing) Act 2004* in March 2015. Prior to this gas appliance workers were regulated under the gas appliance worker accreditation scheme in the *Gas Safety Act 2000*. This scheme was removed in 2014, and the regulation of gas appliance workers incorporated into the *Construction Occupations (Licensing) Act 2004* through the *Gas Safety Legislation Amendment Act 2014*.

**Clause 15 Definitions—pt 11AA**  
**Section 123AA, definition of *public safety agency*, new paragraphs (fa) and (fb)**

This clause inserts the Chief Health officer and a *public health officer* appointed under the *Public Health Act 1997* as a public safety agency for the purposes of information sharing provisions between public safety agencies.

**Clause 16 New Section 128A**

This clause introduces new section 128A which provides that a regulation made under this Act, may incorporate, apply or adopt (with or without change or modification) a law or an Australian Standard as in force from time to time or another instrument as in force from time to time.

This provision aligns with similar provisions across the ACT's building and construction regulatory system.

This clause disapplies section 47 (5) and (6) of the *Legislation Act 2001*. This disapplication will allow a consistent approach to the application, adoption or incorporation of documents whether copyrighted or not or otherwise publicly available. There may also be instances where it is not practical to publish information due to its volume and inefficient due to it being otherwise publicly available. The Bill supports transparency for processes and decision-making and provides for the use

of the ACT Government's planning website to provide easier access to information. This will allow for the community to have easy access to updated information.

This clause requires the Director-General, in circumstances where a regulation incorporates, applies or adopts (with or without change or modification) an instrument (excluding a law or an Australian Standard or Australian/New Zealand Standard), to make the incorporated, applied or adopted instrument available:

- on the ACT legislation register; or
- available for inspection by anyone without charge during ordinary business hours at an ACT Government office; or
- (accessible) on an ACT Government website or by a link on an ACT Government website.

Australian Standards are subject to copyright, so cannot be published by way of a disallowable instrument. Australian Standards may be purchased at [www.standards.org.au](http://www.standards.org.au).

Australian standards are technical documents that are used by industry to meet building laws. The ACT continues to work with the Australian Building Codes Board (ABCB) to support improved access to Australian Standards referenced in their documentation, system or schemes.

#### **Clause 17 Regulation—making power Section 129 (4) and (5)**

This clause omits existing sections 129 (4) and (5) consequential on the changes at clause 16.

#### **Clause 18 New part 24**

This clause inserts new Part 24 into the *Construction Occupations (Licensing) Act 2004*.

New Part 24 deals with the application of amendments made by clause 14 of this Bill.

New section 196 validates the treatment of a gas appliance worker as a construction occupation during the period where the regulatory oversight of including them in the definition of construction occupation existed.

New section 197 is a standard expiry clause for validating provisions.

#### **Clause 19 Dictionary, new definition of *director***

This clause is a minor and technical amendment to include a definition of *director* to support enforcement and compliance activities undertaken by the construction occupations registrar under the *Construction Occupations (Licensing) Act 2004* in relation to directors of licensed entities.



## **PART 5      Gas Safety Act 2000**

This Part amends the *Gas Safety Act 2000* to support the licensing and regulatory scheme for medical gas systems established in the *Building and Construction Legislation Amendment Act 2023*.

### **Clause 20    Meaning of *gas appliance worker* Section 6D, definition of *gas appliance worker***

This clause is a minor and technical amendment to remove an irrelevant reference.

### **Clause 21    Meaning of *gasfitter* Section 6E, definition of *gasfitter***

This clause replaces the existing definition of gasfitter to reflect the current occupation classes within the construction occupation of gasfitter.

### **Clause 22    Meaning of relevant standard Section 6H (1), definition of *relevant standard*, paragraph (a)**

This clause is a minor and technical amendment consequential on the changes at clause 23.

### **Clause 23    New section 6H (1), definition of *relevant standard*, new paragraph (c)**

This clause prescribes the relevant Australian Standard for medical gas systems as the relevant standard for the purposes of medical gasfitting work and medical gas technician work regulated by the *Gas Safety Act 2000*.

Australian Standards are subject to copyright, so cannot be published by way of a disallowable instrument. Australian Standards may be purchased at [www.standards.org.au](http://www.standards.org.au).

Australian standards are technical documents that are used by industry to meet legal obligations. The ACT continues to work with the Australian Building Codes Board (ABCB) to support improved access to Australian Standards by the building and construction industry.

### **Clause 24    Section 6H (2) and note**

This clause is a minor and technical amendment consequential on the changes at clause 23.

### **Clause 25    Offence—certificate of compliance Section 9 (b) (ii)**

This clause establishes an offence where a responsible gasfitter finishes gasfitting work on a medical gas system and fails to give each person prescribed by regulation a certificate of compliance certifying that the gasfitting work on a medical gas system has been undertaken in accordance with relevant gas safety legislation and the medical gas system is safe to use.

This offence carries a maximum penalty of 50 units and is not a strict liability offence.

**Clause 26 New section 12A**

This clause establishes an offence where a gasfitter carries out gasfitting work on a medical gas system and fails to undertake specified action when the gasfitter has identified that the system poses a substantial risk to the safety of a person or property.

This offence carries a maximum penalty of 50 units and is not a strict liability offence.

**Clause 27 General powers of entry to premises  
Section 47 (2)**

This clause is a minor and technical amendment to include a medical gas system consequential on the changes made to the *Gas Safety Act 2000* in the *Building and Construction Legislation Amendment Act 2023*.

**Clause 28 Section 47 (1) (e)**

This clause is a minor and technical amendment to include a medical gas system consequential on the changes made to the *Gas Safety Act 2000* in the *Building and Construction Legislation Amendment Act 2023*.

**Clause 29 Regulation—making power  
Section 69 (2) (a) and (b)**

This clause makes minor and technical amendments to the regulation-making power to align the regulation-making powers with the objectives of the *Gas Safety Act 2000*.

**Clause 30 Section 69 (2) (h) and (i)**

This clause is a minor and technical amendment to include a medical gas system consequential on the changes made to the *Gas Safety Act 2000* in the *Building and Construction Legislation Amendment Act 2023*.

**Clause 31 Dictionary, new definition of AS 2896**

This clause is a minor and technical amendment to include a definition of AS 2896 consequential on the changes at clause 23.

**PART 6 Gas Safety Regulation 2001**

This Part amends the *Gas Safety Regulation 2001* to support the licensing and regulatory scheme for medical gas systems established in the *Building and Construction Legislation Amendment Act* and this Bill.

**Clause 32 Section 12 (1)**

This clause is a minor and technical amendment to clarify who certificates of compliance are to be provided to when the gasfitter is doing medical gasfitting work or medical gas technician work.

### **Clause 33 Section 12 (2) (b)**

This clause clarifies that a certificate of compliance is only required to be provided to the owner of the gas distribution network where the gasfitting work carried out is not medical gasfitting work or medical gas technician work.

### **Clause 34 Dictionary, note 3**

This clause is a minor and technical amendment to include signposts to definitions in the *Gas Safety Act 2000*.

### **Clause 35 Dictionary, definition of *defect tag***

This clause is a minor and technical amendment to remove an ineffective and unnecessary definition.

## **PART 7 Property Developers Act 2024**

This Part makes a minor and technical amendment to the *Property Developers Act 2024* to address a drafting error.

### **Clause 36 Incorporating, applying or adopting documents in regulations and instruments Section 120 (3)**

This clause is a minor and technical amendment to address a typographical error in a cross-reference to another subsection in section 120.

## **PART 8 Water and Sewerage Act 2000**

This Part makes minor and technical amendments to the *Water and Sewerage Act 2000* to improve the administration of the ACT's building regulatory system and remove unnecessary administrative burden on Government and Industry.

### **Clause 37 Sections 44E to 44F**

This clause omits existing sections 44E and 44F.

Section 44E places unnecessary administrative burden on the Government and Industry. The ACT Appendix to the Plumbing Code is available on the ACT Legislation Registrar and can be requested from the Government.

Section 44F no longer reflects current practices for publication of the Plumbing Code by the Australian Buildings Code Board and places unnecessary administrative burden on the Government.

Industry is not negatively impacted by the removal of these provisions due to the free online publication of the Plumbing Code by the Australian Buildings Code Board and the publication of the ACT Appendix to the Plumbing Code on the ACT legislation register and existing mechanisms for seeking access to these documents either through the ABCB or the ACT Government.

### **Clause 38 New section 46**

This clause introduces new section 46 which provides that a regulation made under this Act, may incorporate, apply or adopt (with or without change or modification) a law or an Australian Standard as in force from time or time or another instrument as in force from time to time.

This provision aligns with similar provisions across the ACT's building and construction regulatory system.

This clause disapplies section 47 (5) and (6) of the *Legislation Act 2001*. This disapplication will allow a consistent approach to the application, adoption or incorporation of documents whether copyrighted or not or otherwise publicly available. There may also be instances where it is not practical to publish information due to its volume and inefficient due to it being otherwise publicly available. The Bill supports transparency for processes and decision-making and provides for the use of the ACT Government's planning website to provide easier access to information. This will allow for the community to have easy access to updated information.

This clause requires the Director-General, in circumstances where a regulation incorporates, applies or adopts (with or without change or modification) an instrument (excluding a law or an Australian Standard or Australian/New Zealand Standard), to make the incorporated, applied or adopted instrument available:

- on the ACT legislation register; or
- available for inspection by anyone without charge during ordinary business hours at an ACT Government office; or
- (accessible) on an ACT Government website or by a link on an ACT Government website.

Australian Standards are subject to copyright, so cannot be published by way of a disallowable instrument. Australian Standards may be purchased at [www.standards.org.au](http://www.standards.org.au).

Australian standards are technical documents that are used by industry to meet building laws. The ACT continues to work with the Australian Building Codes Board (ABCB) to support improved access to Australian Standards referenced in their documentation, system or schemes.

### **Clause 39 Regulation—making power Section 49 (3) and (5)**

This clause omits existing sections 49 (3) and (5) consequential on the changes at clause 38.

## **PART 9      Water and Sewerage Regulation 2001**

This Part makes minor and technical amendments to the *Water and Sewerage Regulation 2000* consequential on the changes in Part 8.

### **Clause 40      Water efficiency requirements—water supply and sanitary plumbing work—Act, s 17A (1) (b) Section 16E (2), new note**

This clause is a minor and technical amendment consequential on the changes at clause 38.

### **Clause 41      Section 16E (5) and note**

This clause is a minor and technical amendment consequential on the changes at clause 38.