



AUSTRALIAN CAPITAL TERRITORY

Energy Efficiency Ratings (Sale of Premises) Act 1997

No. 121 of 1997

An Act to facilitate the disclosure of energy efficiency ratings in relation to premises for sale

[Notified in ACT Gazette S420: 24 December 1997]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Energy Efficiency Ratings (Sale of Premises) Act 1997*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on the day after the end of the period within which a regulation made for the purposes of the definition of “energy efficiency rating statement” in section 3 may cease to have effect by force of the *Subordinate Laws Act 1989* unless the regulation did so cease to have effect.

(3) If the Act has not commenced before the end of the period of 12 months commencing on the day on which this Act is notified in the *Gazette*, those provisions, by force of this subsection, commence on the first day after the end of that period.

Interpretation

3. In this Act, unless the contrary intention appears—

“energy efficiency rating” means the energy efficiency rating contained in an energy efficiency rating statement;

“energy efficiency rating statement” means—

- (a) a statement prepared in accordance with the Energy Ratings System for Residential Buildings prescribed by the Australian Capital Territory Planning Authority for the purposes of the Territory Plan as in effect from time to time under the *Land (Planning and Environment) Act 1991*; or
- (b) if the regulations make provision for energy efficiency rating statements—a statement prepared in accordance with the regulations;

“premises” includes—

- (a) any habitable structure, whether it is affixed to the land or not;
- (b) part of any premises; and
- (c) any land, buildings or structures belonging to the premises;

“publish” means communicate or disseminate information in such a way or to such an extent that it is available to, or likely to come to the notice of, the public or a section of the public.

Industry and environment impact statement

4. (1) When a regulation made for the purposes of the definition of “energy efficiency rating statement” in section 3 is laid before the Legislative Assembly pursuant to paragraph 6 (1) (c) of the *Subordinate Laws Act 1989*, the Minister shall cause to be laid before the Legislative Assembly an industry and environment impact statement.

(2) For the purposes of subsection (1), an industry and environment impact statement is a statement prepared by the Minister describing the likely costs and benefits of the energy efficiency rating statement to the real estate and housing industries and consumers generally.

Not applicable to certain premises

5. (1) This Act does not apply to—

- (a) a caravan or mobile home situated in a mobile home park;
- (b) a hotel or motel;
- (c) premises used for the purposes of a club;
- (d) premises situated on the campus of an educational institution;
- (e) a retirement village;
- (f) a nursing home or hostel for aged or disabled persons conducted by an eligible organisation within the meaning of the *Aged or Disabled Persons Care Act 1954* of the Commonwealth; or
- (g) premises prescribed by the regulations.

(2) In subsection (1)—

“mobile home” means a dwelling (whether on wheels or not) capable of being transferred from place to place and re-erected;

“mobile home park” means land lawfully used for the purpose of accommodating mobile homes or caravans, and includes a caravan park or camping ground;

“retirement village” means a complex of residential premises (whether including hostel units or not) established primarily for occupation by persons who are at least 55 years of age under a scheme in which a person makes a payment (including a gift) to the authority administering the scheme in consideration for being admitted as a resident of the complex.

Energy efficiency rating—advertising

6. (1) A person shall not, without reasonable excuse, publish an advertisement for the sale of premises unless the advertisement contains a statement of the energy efficiency rating of the habitable part of the premises.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 penalty units.

(2) A person shall not, without reasonable excuse, publish an advertisement for the sale of premises that includes a statement of the energy efficiency rating of the habitable part of the premises that is false or misleading in a material particular.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 penalty units.

Energy efficiency rating statement

7. (1) Before entering into a contract for the sale of premises, the vendor shall give a prospective purchaser—

- (a) a copy of an energy efficiency rating statement in relation to the habitable part of the premises; or
- (b) where—
 - (i) building work within the meaning of the *Building Act 1972* has been carried out on the premises that affects the energy efficiency rating of the habitable part of the premises; and
 - (ii) before that building work was carried out, an energy efficiency rating statement had been prepared in relation to the habitable part of the premises;

a copy of a fresh energy efficiency rating statement in relation to the habitable part of the premises.

(2) On receipt of an energy efficiency rating statement under paragraph (1) (a) or (b), a prospective purchaser shall certify in writing that he or she has received a copy of the statement.

(3) If the vendor fails to comply with subsection (1), the purchaser may, by notice in writing given to the vendor, rescind the contract.

(4) The vendor shall be taken to have complied with subsection (1) if an energy efficiency rating statement under paragraph (1) (a) or (b) and the certificate under subsection (2) are attached to the contract for sale.

Regulations

8. The Executive may make regulations for the purposes of this Act.

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 3 December 1997]

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