

Australian Capital Territory

Civil Law (Sale of Residential Property) Energy Efficiency Rating Guidelines Determination 2009 (No 1)

Disallowable instrument DI2009–62

made under the

Civil Law (Sale of Residential Property) Act 2003, s 20A (Energy efficiency rating guidelines)

1 Name of instrument

This instrument is the *Civil Law (Sale of Residential Property) Energy Efficiency Rating Guidelines Determination 2009 (No 1)*.

2 Commencement

This instrument commences on the day after notification.

3 Making of guidelines

I make the document entitled “ACT House Energy Rating Scheme Interim Guidelines for Preparing Energy Efficiency Rating Statements”, attached to this instrument, guidelines for preparing an energy efficiency rating statement under the *Civil Law (Sale of Residential Property) Act 2003, s 20A (Energy efficiency rating guidelines)*.

4 Revocation

All previous guidelines for preparing an energy efficiency rating statement are revoked.

Neil Savery
Planning and Land Authority
30 April 2009

ACT House Energy Rating Scheme

Interim Guidelines for Preparing Energy Efficiency Rating Statements

May 2009

1. GENERAL INFORMATION

1.1. Guidelines

The *Civil Law (Sale of Residential Property) Act 2003*, section 20A, entitles the Planning and Land Authority to make guidelines for preparing an energy efficiency rating statement for that Act, section 20A, (Energy efficiency rating guidelines). The guideline is a disallowable instrument.

1.2. Purpose

The purpose of the Guidelines is to ensure that Energy Efficiency Rating Statements are prepared in such a way as to provide credible and meaningful information to prospective purchasers and tenants of residential premises, and outline interim provisions for new constructions that have been assessed for under the current energy efficiency requirements in the Building Code of Australia.

1.3. Application

These guidelines apply to preparation of energy efficiency ratings and energy rating statements and assessor services provided in relation to EERs.

1.4. Revision History

This document supersedes all previous versions of EER Statement guidelines.

1.5. Definitions

The following definitions are used within this document.

ACTHERS	The ACT House Energy Rating Scheme administered by the ACT Planning and Land Authority
assessor services	EER assessment services, or issuing an EER statement, for use relating to advertising property subject to the <i>Civil Law (Sale of Residential Property) Act 2003</i>
Energy Efficiency Rating (EER)	The assessment conducted by a registered assessor using the approved energy rating software in compliance with the rules and protocols specified in these guidelines, for a purpose relating to issuing an energy efficiency statement under the <i>Civil Law (Sale of Residential Property) Act 2003</i>
EER statement	The report generated by the approved energy rating software
registered assessor	An individual, who the authority has registered by recording the individual's relevant details in the authority's register of energy assessors, if that registration is not lapsed, invalidated, suspended or cancelled.

2. REQUIREMENTS FOR ENERGY EFFICIENCY RATING STATEMENTS

2.1 Allowable energy efficiency rating statements

An energy efficiency rating statement used for the purposes of the *Civil Law (Sale of Residential Property) Act 2003* must be:

- (a) a current, valid and complete energy efficiency rating statement as described in clause 2.2 of these guidelines; or
- (b) a deemed energy efficiency rating statement.

2.2 Requirements for energy efficiency rating statements

An EER Statement must be current, valid and complete.

- (a) An EER Statement is **current** if—
 - i. it reflects the status of construction and rateable building elements of the relevant building; and
 - ii. for premises that have been occupied, the vendor or the owner of the relevant property has commissioned the EER; and
 - iii. the EER is not older than 6 months since it was issued; or
 - iv. if the EER is older than 6 months since it was issued, it is accompanied by a statutory declaration made by the vendor under the *Statutory Declarations Act 1959* (Commonwealth) declaring that the fabric of the building and external elements used in the EER have not been materially altered or changed since the EER was issued.
- (b) An EER Statement is **valid** if—
 - i. the relevant EER assessment was carried out by a person who was a registered assessor as defined in Clause 3.5 of these guidelines at the time of issuing the EER; and
 - ii. the relevant EER assessment was undertaken using FirstRate V3.1 or V4.05 house energy rating software marketed by the Victorian Government; and
 - iii. the relevant EER assessment was carried out in accordance with these guidelines; and
 - iv. the statement does not contain information that is materially false or misleading; and
 - v. the front page of the statement is marked with an authorised ACTHERS stamp containing:
 - the name of the registered assessor who has undertaken the EER; and
 - the rating score points and corresponding star rating from 0 to 6 stars; and
 - the date the EER statement was issued; and
 - the registration number and signature of the registered assessor.
- (c) An EER Statement is **complete** it includes –

- i. the rating summary sheet; and
- ii. the detailed house data tables; and
- iii. options for how to improve the rating.

Note—an EER statement in respect of plans for a proposed building, issued before the building was constructed is not necessarily a complete EER statement after the building is subsequently completed.

2.3 Deemed energy efficiency rating statements

A certificate of occupancy issued under the *Building Act 2004*, s 69 (1) or (2) is deemed to comply with the requirements of these guidelines that relate to EER statements, and reflect an energy rating for the respective premises is at least equivalent to premises rated at 5 stars under the guidelines if--

- (a) the certificate is issued in respect of a building approval issued after 1 January 2007, under that Act ; and
- (b) the certificate is issued for the entire premises; and
- (c) there is no other energy rating complying with these guidelines for the premises; and
- (d) the premises has never been occupied.

Note—Clause 2.2 provides for buildings that have been constructed since the introduction of performance requirements equivalent to 5 star ratings under the Building Code of Australia, but not yet occupied. This will avoid the requirement for new residences to obtain a separate rating if:

- a) The building has been rated under the 2006 ABCB House Energy Rating Protocol (on second generation tools); or
- b) The building has met deemed-to-satisfy solutions or demonstrated compliance by an alternate verification method.

2.4 Energy efficiency ratings for sale off the plan

For incomplete or proposed premises to be sold ‘off the plan’ the vendor must provide:

- a) a building approval issued under the *Building Act 2004* confirming that the proposed plans meet the relevant energy efficiency requirements under the Building Code of Australia; and
- b) any energy assessment and rating documentation detailing the efficiency of the building and or building elements.

Premises that meet the above requirements but for which an energy efficiency rating has not been prepared can advertise using a nominal rating of no greater than 5 stars.

Note- this allows buildings that meet the energy efficiency performance requirements for new buildings under the BCA to use verification of those requirements ratings in order to on-sell the building. This method is only permissible for building yet to be completed at the time of sale..

3 ASSESSMENT PROTOCOLS AND PROCEDURES

3.1. Application of Part 3

The general assessment protocols and procedures apply to premises for sale requiring an EER Statement in accordance with Clause 2.2 of these Guidelines.

3.2. Software

EER's are to be undertaken using First Rate 4.05 as mentioned in Clause 2.1 of this EER Guideline.

Note—the Building Code of Australia provides for other methods of achieving and estimating a building's energy efficiency. Those methods do not necessarily comply with this guideline.

3.3. Software Settings

EER's are to be assessed in “non regulation” mode only.

3.4. Climate Zone

EERs for premises are to use the climate zone data for:

- a) climate zone 24 for premises in Canberra ACT; or.
- b) climate zone 25 for premises in alpine areas of the ACT.

Note -the climate zone can be selected by entering the correct region or the correct postcode for the suburb.

3.5. Registered Assessors

An EER or EER Statement must be prepared by a person who is registered as an energy assessor by the Authority at the time of preparation if the registration is not lapsed, invalidated, suspended or cancelled.

3.6. ACTHERS Stamps

The authority may give a registered assessor an ACTHERS manual stamp or an authority to use an ACTHERS approved electronic stamp, or both. The stamp will contain a number unique to the device.

Documents must not be marked with an authorised electronic stamp unless—

- a) the authority has given written authorisation for the use of the device, and
- b) the use is consistent with these guidelines and any conditions of the authorisation; and

- c) the mark the device produces is a legible facsimile of the mark produced by the respective approved ACTHERS manual stamp; and
 - d) the marked document is reasonably secured or locked so as the mark is not readily copied or reused on another document.
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