

Australian Capital Territory

Water and Sewerage (Plumbing Code) Declaration 2011

Notifiable Instrument NI2011– 236

made under the

Water and Sewerage Act 2000, section 46(1) (Plumbing Code)

EXPLANATORY STATEMENT

Background

Section 46 of the *Water and Sewerage Act 2000* (the Act), allows the Minister to declare a document to be the plumbing code for the purposes of the Act.

Section 15 (3) of the Act provides that a licensed plumber, when undertaking work which is covered by the plumbing code, commits an offence if the work is not done in accordance with the plumbing code.

The 2011 edition of the Plumbing Code of Australia (PCA) was published by the Australian Building Codes Board (ABCB). Previous editions were published by the National Plumbing Regulators Forum (NPRF). The PCA consolidates and references national plumbing standards.

The declaration under s 46 (1) of the *Water and Sewerage Act 2000* (the Act) declares that the plumbing code consists of certain sections of the Plumbing Code of Australia as published by the ABCB. The determination only references those sections which relate to work for which a licence is required in the ACT or covered by the scope of the Act.

The Plumbing Code of Australia

The ABCB publishes the Plumbing Code of Australia (the Code) on behalf of the Commonwealth and State and Territory governments. The Code is intended to be the basis of nationally consistent regulations on all on-site plumbing installations and plumbing product certification and authorisation. Its objective is to provide an appropriate level of protection for the community, water utilities infrastructure, water resources and the environment, while at the same time to encourage the conservation of water and energy resources.

Adoption of the Code delivers greater national uniformity, consistency of approach and increased efficiencies within the industry.

The Code aims to achieve of an acceptable standard of installation in order to provide for public health, safety and amenity, resource and environment conservation, sustainability, and protection of public and private infrastructure. The Code is designed to ensure that any plumbing and drainage installation is fit for its intended

purpose, does not have an adverse impact on the environment and can continue to function as intended without excessive maintenance. The Code extends regulations no further than is necessary in the public interest, insofar as they are cost effective and not needlessly onerous in their application.

The Code sets out performance based technical provisions for the design, construction, installation, replacement, repair, alteration and maintenance of plumbing and drainage installations throughout Australia. It also sets out the requirements for the use of materials and products in plumbing and drainage installations and defines the processes for the certification and authorisation of materials and products that require statutory authorisation to enable their use in plumbing and drainage installations.

The Code is made up of separate sections. The Code acknowledges that the adoption of the Code by States and Territories could be subject to the variation or deletion of some of its provisions, depending on the regulatory system in place in each jurisdiction.

Cost and other regulatory impacts

The 2011 edition of the Code is substantively the same as the previous addition that was in force in the ACT immediately before revocation by this determination. That previous edition was revoked mainly as a consequence of the publisher of the Code changing. Thus, the revocation and this determination are consequential changes that otherwise do not substantively change relevant regulatory requirements.

The proposal to change of publisher of the plumbing code from the NPRF to the ABCB, was part of reforms to integrate the building code and plumbing code into a National Construction Code (NCC).

The Council of Australian Governments (COAG) directed that the NCC be developed. A Regulatory Impact Statement was produced about the establishment of the NCC for the Australian Government Department of Innovation, Industry, Science and Research. The Regulatory Impact Statement covered the impacts of changing the publisher of the plumbing code.

Therefore there is no need for a Regulatory Impact Statement for reforms consequential to the NCC reforms brought about by this determination. The Commonwealth's Regulatory Impact Statement is available from:

http://www.coag.gov.au/coag_meeting_outcomes/2009-04-30/docs/NCC_regulation_impact_statement.pdf

Retrospectivity of commencement

The instrument provides that it is taken to have commenced on 1 May 2011, which is before its notification day. Commencement on 1 May 2011 is necessary to coincide with the national adoption date of the NCC.

The retrospective commencement will not operate to the disadvantage of a person by adversely affecting the person's rights, or imposing liabilities on the person.

Provisions in the declaration

The declaration is made under section 46 (1) of the *Water and Sewerage Act 2000*.

Section 1 names the declaration instrument as the *Water and Sewerage (Plumbing Code) Declaration 2011 (No 1)*.

Section 2 provides that the instrument is taken to have commenced on 1 May 2011. It is intended that it commence on that day irrespective of when it was notified on the ACT legislation register.

The retrospective commencement will not operate to the disadvantage of a person by adversely affecting the person's rights, or imposing liabilities on the person. Commencement on 1 May 2011 is necessary to coincide with the national adoption of date of the NCC.

Section 3 provides that the Minister revokes notifiable instrument NI2006–318, *Water and Sewerage (Plumbing Code) Declaration 2006*. This is necessary as that instrument declared the Code to be the Code published by the NPRF, whereas the responsibility for publication of the Code has transferred to the ABCB. That is the main reason for revoking the previous instrument and making the new instrument.

Section 4 declares what the Code comprises, being sections A, B, C, G; of the Code and the ACT appendix to the Code. It also provides that the Code that contains those provisions is the Plumbing Code of Australia published as part 3 of the National Construction Code 2011 by the Australian Building Codes Board.

Section 5 provides that for the purposes of this determination, section 47 (5) of the *Legislation Act 2001* do not apply. This clause removes the requirement for the text of the Plumbing Code of Australia to be notified, as doing so would be in breach of copyright.

Section 6 provides information about how access to the Code can be obtained.

Explanation of the adopted provisions of the Plumbing Code of Australia.

The Plumbing Code of Australia consists of seven sections. The determination references only four of these. Sections of the PCA which relate to work that is currently not licensable in the ACT, or is not included in the definition of plumbing work are not referenced in the determination.

Section A sets out the general provisions and explains the structure of the Code.

Sections B to C of the Code contain the technical performance requirements for the design, construction, installation, replacement, repair, alteration and maintenance of water services, and sanitary plumbing and drainage systems.

Section G of the Code contains the procedures for certification of plumbing and drainage products for authorised use in new installations, alterations, additions, replacement and repairs to existing installations.