

Building (ACT Appendix to the Building Code) Revocation 2015

Disallowable Instrument DI2015—8

made under the

Building Act 2004, s 136 (3) (Building Code)

EXPLANATORY STATEMENT

General explanatory information

The instrument, *Building (ACT Appendix to the Building Code) Revocation 2015*, is to repeal DI2012—248 (*Building (ACT Appendix to the Building Code) Determination 2012*). That is necessary as it is anticipated that the ACT Appendix included in the 2015 published version of the building code will virtually duplicate all of the ACT Appendix that was made in the instrument to be repealed. The instrument to be repealed will therefore not be necessary, as it will virtually be a duplicate of what is in the published version of the code. The published version of the appendix will be almost a verbatim duplication, except that it will correct some erroneous numbering references, and clarify several less clear phrases, and better align with the formatting conventions of the building code.

Prior to the revocation, users of the ACT Appendix needed to refer to two locations to see the entire ACT Appendices to the code—part was in the instrument to be repealed, and the other part was in the published code. Revocation will ensure users only need to refer to the published code to see the entire ACT Appendix, and not need to also refer to DI2012—248 (*Building (ACT Appendix to the Building Code) Determination 2012*).

Regulatory Impact Statement and power to revoke instrument

Under the *Legislation Act 2001*, section 34 (1), a regulatory impact statement under chapter 5 of that Act is not required because the instrument (the proposed law) will not impose appreciable costs on the community, or a part of the community. The proposed law will merely restate the existing respective law provisions, but in a different, but more centralised, appropriate, and accessible place—the published ACT Appendix to the building code—than its predecessor—DI2012—248 (*Building (ACT Appendix to the Building Code) Determination 2012*).

The *Building Act 2004*, s 136, provides the power for the Minister to make the ACT Appendix to the building code. The power to revoke such an instrument is from the *Legislation Act 2001*, section 46 (1), which provides that power given by a law to make a statutory instrument includes power to amend or repeal the instrument.

Explanation of sections of instrument

Section 1 names the instrument as the *Building (ACT Appendix to the Building Code) Revocation 2015*. It may be cited by that name.

Section 2 provides that the instrument commences on 1 May 2015, which is expected to coincide with the commencement, for the ACT, of the 2015 edition of the building code. The code is expected to contain a provision that prescribes that for the ACT, the code commences on that date. An intention is that on that date, the instrument will repeal the instrument that had made the ACT Appendix, namely, DI2012—248 (*Building (ACT Appendix to the Building Code) Determination 2012*). So, unless another instrument or regulation or law provision provides to the contrary, the ACT Appendix to the code will be contained in the published version of the code, and will not be in a separate instrument. An intention is that that will be the case for subsequent editions of the code, unless an instrument, regulation or other relevant law provisions provides to the contrary. The code has for many years been republished annually, but from after 2015 is expected to be republished three-yearly unless there is a need for a special republication at an earlier time.

Section 3 provides that the Minister making the instrument revokes DI2012—248 (*Building (ACT Appendix to the Building Code) Determination 2012*).

Section 3 also includes a note to explain that the *Building Act 2004*, s 136 (Building Code), provides that the building code means the Building Code of Australia, prepared and published by the Australian Building Codes Board, as amended from time to time by that Board, and the ACT appendix to the code.

The note also explains that the published code provides that it includes its published appendices, which include Commonwealth, State and Territory additions to the code, and that the code usually commences on 1 May for each republication.

The note also explains that the Building Act, section 136, also provides that, to remove any doubt, the code includes the variations, additions and exclusions for the ACT contained in the code, including in an appendix to the code.

The note also explains that the Building Act, section 136, entitles the Minister to make an ACT Appendix to the code, and that instrument revokes the respective instrument that had made the ACT Appendix, namely, DI2012—248 (*Building (ACT Appendix to the Building Code) Determination 2012*). In the absence of any other instrument making—or a regulation prescribing for—an ACT Appendix—the ACT Appendix will be as published as part of the building code, by the Board, as amended from time to time by the Board, as described under the above-mentioned section 136.

Section 4 describes how the building code and its appendices, including the ACT Appendix, can be viewed, for information. It is not intended to describe in law what or where the code is—see the Building Act, s 136 for such a description.