

Australian Capital Territory

# Water and Sewerage (ACT Appendix to the Plumbing Code) Determination 2019 (No 3)

**Disallowable instrument DI2019—177**

made under the

**Water and Sewerage Act 2000, s 44C (Plumbing code)**

## EXPLANATORY STATEMENT

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The Plumbing Code of Australia is developed and published by the Australian Building Codes Board (ABCB). The ACT is represented on the ABCB along with representatives from all States, the Northern Territory, the Australian Government and the building industry.

The *Water and Sewerage Act 2000* (the Act), section 44C (Plumbing code), adopts the Plumbing Code of Australia (PCA) including any ACT-specific requirements as published in the appendices of the PCA as part of the plumbing code for the purposes of the Act.

Section 44C (3) of the Act entitles the Minister to make ACT appendices to the PCA to provide a mechanism for the ACT to amend the PCA from time to time, including to amend the date an edition of the PCA, or a provision of the PCA, comes into effect in the ACT.

The PCA and its ACT appendices form part of ACT law. The published ACT appendices in the 2019 PCA do not include specific provisions but instead refer readers to the page for the *Water and Sewerage Act 2000* on the ACT Legislation Register, where all instruments made under the Act can be found. This is so that there is a single location for ACT appendices, and a single version published as current at any one time, which can be amended if required.

The ACT appendices apply only to the ACT and Jervis Bay Territory.

### **Application of the 2019 Plumbing Code of Australia**

The 2019 PCA is not retrospectively applied or adopted. DI2019-56 *Water and Sewerage (ACT Appendix to the Building Code) Determination 2019 (No 2)* amended the adoption date for the ACT for certain provisions of the code from 1 September 2019 to 1 June 2019 to allow earlier adoption of the majority of the provisions with transitional arrangements for plumbing work approved or carried out before 1 September 2019. It included an adoption date of 1 September 2019 for Part B4. The general adoptions and transitions are carried over to this instrument for continuity.

## **Displacement of Legislation Act, section 47(5).**

Section 4 of the instrument displaces the requirement in the *Legislation Act 2001*, section 47 (5) to notify documents adopted at a point in time on the Legislation Register. Copyright to the PCA is collectively owned by the Australian Government and the states and territories. The arrangement between jurisdictions is that the PCA will be published on behalf of the jurisdictions in a single place by the ABCB. It would not be appropriate to publicly notify the code on an ACT Government website. Section 6 of the instrument provides for alternative access to the PCA as it is not being notified on the Legislation Register.

The ACT Appendix also adopts AS/NZS 4013:2014 *Domestic solid fuel burning appliances – Method for determination of flue gas emissions*, and makes references to other Australian Standards. Australian Standards are subject to copyright, and cannot be republished by the ACT Government. Adopted standards are available for inspection at the ACT Environment, Planning and Sustainable Development Directorate shopfront during business hours and can be purchased at [www.standards.org.au](http://www.standards.org.au).

## **Regulatory Impact Statement (RIS)**

Section 34 of the *Legislation Act 2001* provides that if a proposed subordinate law or disallowable instrument (the proposed law) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made, the Minister administering the authorising law must arrange for a regulatory impact statement to be prepared for the proposed law.

A RIS is not required for this instrument as the provisions of the ACT Appendix are not expected to impose appreciable costs on the community or part of the community. This instrument continues some long-standing ACT-specific variations for general requirements for sanitary plumbing and drainage, but removes three specific provisions relating to provision of manholes, overflow relief gullies in multi-unit developments, and vertical jump-ups on house drainage. It also provides additional choice for water heaters in a heated water supply system, by allowing forms of electric resistant heaters not previously recognised under the Deemed-to-Satisfy (DtS) provisions. In the ACT, due to the ACT Government's policies for renewable electricity, these water heaters have become a lower greenhouse gas emitting option than some others permitted in the DtS.

This instrument is not the primary mechanism for adopting the 2019 PCA, which is adopted by force of the *Water and Sewerage Act 2000*. In relation to the new standards in the PCA, s 36 (1) (h) of the *Legislation Act* provides that a regulatory impact statement is not required for a matter involving the adoption of an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, if an assessment of the benefits and costs has already been made and the assessment was made for, or is relevant to, the ACT.

The ABCB has undertaken and published on its website ([www.abcb.gov.au](http://www.abcb.gov.au)) regulatory impact analysis, including regulatory impact statements, for the increased regulatory stricture provided by PCA 2019.

## **Human Rights**

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts, among other matters. There are no human rights impacts related to this instrument. It provides for technical plumbing standards that do not impact on human rights.

## **Provisions of the determination**

**Section 1** names the determination as the *Water and Sewerage (ACT Appendix to the Plumbing Code) Determination 2019 (No 3)*.

**Section 2** provides that the determination commences on 1 June 2019.

**Section 3** makes Schedule 1 to the instrument as an Australian Capital Territory Appendix to the Plumbing Code of Australia (PCA). Schedule 1 provides for a range of technical plumbing matters.

**Section 4** provides that the requirement of the *Legislation Act 2001*, section 47 (5) is disapplied. That section provides that the text an instrument applied as in force at a particular time is taken to be a notifiable instrument made under the relevant instrument, and therefore must be published on the Legislation Register.

The PCA is subject to copyright, making it inappropriate to notify on the legislation register.

**Section 5** revokes DI2019-56 *Water and Sewerage (ACT Appendix to the Plumbing Code) Determination 2019 (No 2)*.

**Section 6** is to make the community aware of how they can access a copy of the ACT Appendix to the Plumbing Code of Australia .

**Section 7** is to make the community aware they can access the Building Code of Australia for free at <https://ncc.abcb.gov.au/ncc-online/NCC>.

**Section 8** is to make the community aware where they can access Australian Standards.

**Schedule 1** includes the following:

- A table of contents
- Provisions for the adoption date for the PCA in the ACT which mirror those in force from 9 May 2019 being:
  - 1 September 2019 as the adoption date for Part B4.
  - 1 June 2019 as the adoption date for all other provisions, with a transition for compliance during which work can comply with either the relevant provisions in the 2016 PCA or the 2019 PCA.
- Revised options for water heaters in a heated water supply system (ACT B2.2) that reflect the Territory's programs for investment in renewable electricity. The relevant standard relates to greenhouse gas emissions. In the ACT, electric water heaters have become lower emissions option than when restrictions on the use of these water heaters were first introduced in 2009. The provisions also allow for innovative water heating technologies not otherwise specified in the PCA.
- Introduction of requirements in Part B4.2 that correspond with the introduction of specifications for new forms of fire sprinkler systems, which require isolation valves for the sprinkler and drinking water supply in a FPAA101D system to be signed so that people maintaining or working on the relevant water supply are aware the valve isolates both supplies.
- General requirements for sanitary and plumbing and drainage systems, which correspond to provisions in previous appendices but remove specific requirements for relating to provision of manholes, overflow relief gullies in multi-unit developments, and vertical jump-ups on house drainage. With changes to standards and practices, these provisions are no longer required.
- Definitions that correspond to terms in the provisions outlined above.
- An additional referenced document AS/NZS 4013 *Domestic solid fuel burning appliances – Method for determination of flue gas emissions*, which relates to the provisions for water heaters.