

Australian Capital Territory

# Water and Sewerage (ACT Appendix to the Plumbing Code) Determination 2023

Disallowable instrument DI2023—68

made under the

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

## EXPLANATORY STATEMENT

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### Overview

This instrument is made under section 44C of the *Water and Sewerage Act 2000* (the *Act*).

The Plumbing Code of Australia (PCA) 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 Commonwealth Government and the building industry.

Section 44C of the Act, adopts the 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 an ACT appendix to the PCA to provide a mechanism for the ACT to amend the PCA from time to time, including to amend the date and edition of the PCA, or a provision of the PCA, comes into effect in the ACT.

The PCA and its ACT appendix form part of ACT law. The published ACT appendices in the PCA (published on the ABCB website) do not include specific provisions but instead refer readers to the ACT Legislation Register, where all instruments made under the Act can be found, including the ACT appendix to the PCA. This is so that there is a single source for the ACT appendix to the PCA, and a single version published as current at any one time, which can be amended as required.

The ACT appendix only applies to the ACT and Jervis Bay Territory.

### Adoption date of the Plumbing Code of Australia

The PCA has an assumed adoption date for each State and Territory and the Commonwealth as 1 May 2023. Some States and Territories include automatic

transitional provisions in their enabling laws, under which the provisions of the PCA do not come into effect until a specified period after the adoption date published in the PCA.

The ACT does not have automatic transitional provisions. Instead, a decision on transitional provisions or later adoption is made based on the nature and effect of the changes in a new edition.

The ABCB publishes new editions every three years. The 2022 PCA is the first new edition since 2019. It includes substantial changes to the structure of the PCA and changes to the provisions of the code.

This instrument revokes the *Water and Sewerage (ACT Appendix to the Plumbing Code) Determination 2019 (No 3) (DI2019-177)*.

Section 5 of the instrument displaces the requirement in the *Legislation Act 2001* (the Legislation Act), section 47 (5). Section 47 (5) provides that the text of 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. Copyright to the PCA is collectively owned by the Commonwealth, 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 PCA on an ACT Government website. The notes to section 5 of the instrument describe alternative access to the PCA, as it is not being notified on the Legislation Register.

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

Section 34 of the Legislation Act 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 amended adoption date is not expected to impose appreciable costs on the community or part of the community. The appendix includes transitional provisions under which projects may comply using either the 2019 provisions or the 2022 corresponding provisions for the relevant subject matter.

This instrument is not the primary mechanism for adopting the 2022 PCA, which is adopted by force of the Act. In relation to the new standards in the PCA, section 36 (1) (h) of the Legislation Act provides that a RIS 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.

## **Human Rights Implications**

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. The instrument amends the adoption date and technical standards in the 2022 PCA.