

Australian Capital Territory

Building (Ministerial exemptions for regulated swimming pools) Guidelines 2024

Disallowable instrument DI2024–82

made under the

Building Act 2004, s 83G (Minister may make guidelines)

EXPLANATORY STATEMENT

This instrument is made under section 83G of the *Building Act 2004* (the Act).

The *Building (Swimming Pool Safety) Legislation Amendment Act 2023* (the Act) establishes new rules for regulated swimming pools in the ACT. The Act commences on 1 May 2024, with a four-year transition period, before compliance with the prescribed safety standards becomes mandatory on 1 May 2028.

This instrument makes guidelines about applications for, and granting of, Ministerial exemptions for regulated swimming pools. The guidelines outline the matters that will be considered when assessing an application for a Ministerial exemption for regulated swimming pools and sets out the documentation required to be submitted with an application.

This guideline is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification pursuant to section 64 of the *Legislation Act 2001* (the *Legislation Act*).

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.

Section 36 (1) of the *Legislation Act* provides for when a regulatory impact statement is not required to be prepared for a proposed subordinate law or disallowable instrument. This includes when the matter is not of a legislative nature for example, it is administrative in nature. This instrument is administrative in nature as it provides guidance on the making of applications for and granting of Ministerial exemptions for regulated swimming pools.

Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts of subordinate legislation, among other matters. There are no human rights impacts related to this instrument.

Clause Notes

Clause 1 provides the name of the instrument.

Clause 2 states the commencement of the instrument is 1 May 2024.

Clause 3 states the guideline about applications for and granting of Ministerial exemptions for regulated swimming pools is at schedule 1 of the instrument.

Schedule 1 of the instrument is the guideline which sets out descriptions of the grounds on which homeowners or owners corporations may seek a full or partial exemption from the requirement to have a safety barrier compliant with the prescribed safety standards. It sets out:

1. what regulated swimming pools are eligible for each exemption ground
2. examples of the circumstances that may give rise to an application (where applicable)
3. the documentation required to be submitted with an application
4. conditions that apply or may apply to each exemption ground
5. process for making an application
6. notification of decision process
7. review rights