

Australian Capital Territory

Water and Sewerage (ACT Appendix to the Plumbing Code) Determination 2026

Disallowable instrument DI2026-55

made under the

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

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Water and Sewerage (ACT Appendix to the Plumbing Code) Determination 2026* (the **instrument**) as made by the Minister and presented to the Legislative Assembly (the **Assembly**). It has been prepared in order to assist the reader of the instrument. It does not form part of the instrument and has not been endorsed by the Assembly.

Overview

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

The Plumbing Code of Australia (the **PCA**) is developed and published by the Australian Building Codes Board (the **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 (the **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 2026. 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.

To support the commencement of the PCA 2025, a 12-month transition period will be implemented. This means that commencing on 1 May 2026 until 30 April 2027 either the PCA 2022 or the PCA 2025 may be used. However, from the outset of a new project, the version of the PCA (either the PCA 2022 or the PCA 2025) that the new project is complying with, must be clearly nominated, and a project cannot comply with a mix of regulations from each version.

To allow for the transition to full implementation of the PCA 2025, this instrument contains two schedules. Schedule 1 contains the ACT Appendix to the PCA that may apply commencing on 1 May 2026 to 30 April 2027 (as per the PCA 2022). Schedule 2, containing the ACT Appendix to the PCA 2025, may apply commencing on 1 May 2026, but then, must apply from 1 May 2027.

Furthermore, to provide certainty to substantially progressed projects, where a development or works approval (depending on ACT Government Territory Planning Authority (TPA) or National Capital Authority (NCA) jurisdictions) is lodged before 1 November 2026, the project may continue to apply for building approval under the NCC 2022 and the ACT 2022 Appendix. This will remain possible until the development or works approval expires. For this instrument, ‘lodged’ means that a Completeness Check has been finalised for the project to the satisfaction of the TPA or NCA, and all relevant Development or Works application fees have been paid by the applicant. This will remain possible until the Development or Works Approval expires.

The ABCB publishes new editions approximately every three years. The 2025 PCA is the first new edition since 2022. It includes changes and clarifications to the provisions of the PCA related to cross-connection control, rainwater storage and sanitary pipe sizing.

It removes the previous concession in the ACT Appendix to the Plumbing Code related to PCA clause B2D2 that allowed the installation of gas-fired hot water systems, or hot water systems powered by innovative technology in specific circumstances. This is to align with the ACT Government’s restriction on the gas distributor providing new gas connections for natural gas in residential, commercial, and community facilities in place since 8 December 2023. It also reflects the fact that the PCA has pre-existing allowances for innovation using compliant performance solutions.

This instrument revokes the *Water and Sewerage (ACT Appendix to the Plumbing Code) Determination 2023* (DI2023–68).

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 RIS to be prepared for the proposed law.

This instrument is not the primary mechanism for adopting the 2025 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. The ABCB has undertaken and published on its website (www.abcb.gov.au) comprehensive regulatory impact analysis, including regulatory impact statements, for the changed regulatory structure provided by 2025 PCA.

Human Rights Impacts

During the development of the instrument, due regard was given to its engagement with human rights under the *Human Rights Act 2004* (the **HR Act**). This instrument engages with an individual's right to a healthy environment, under section 27C of the HR Act.

The provisions in this instrument support the right to a clean, healthy and sustainable environment via reductions in building emissions from gas connections and improved water quality in the ACT, both inside and outside buildings in the Territory.

Clause Notes

Clause 1 names the instrument the *Water and Sewage (ACT Appendix to the Plumbing Code) Determination 2026*.

Clause 2 provides that this instrument commences on the day after its notification day.

Clause 3 contains the approval of schedules 1 and 2 of the instrument.

Clause 4 provides for when schedule 1 and schedule 2 of this instrument applies.

Clause 5 displaces the requirement in 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.

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The PCA incorporates a number of Australian Standards, Australian/New Zealand Standards and International Standards. The standards are technical standards used by the building and construction sector to meet regulatory requirements across jurisdictions. The sector is generally expected to have knowledge of the standards relevant to undertaking their professional services. It is noted that there are often two or more versions of the Plumbing Code applicable to plumbing and drainage work at any one time and as such there are a significant number of Australian Standards and versions of Australian Standards that industry and regulators require access to.

The standards referenced in the PCA are available for purchase from www.standards.org.au. There are challenges relating to the ability to provide public access to Australian Standards due to copyright issues.

Standards Australia has recently released an initiative (Reader Room) that provides limited, no-fee access to the entire catalogue of Australian Standards for non-commercial purposes, that is for personal, domestic or household use. This initiative provides access for free to a maximum of three standards every 12 months, with access for 24 hours at a time. The Reader Room is available at <https://readerroom.standards.org.au/>.

Clause 6 revokes the *Water and Sewage (ACT Appendix to the Plumbing Code) Determination 2023* [DI2023-68] that is replaced by this instrument.

Schedule 1 is the ACT Appendix of the Plumbing Code that, depending on the circumstances, may apply from commencement of this instrument to 30 April 2027.

Schedule 2 is the ACT Appendix to the Plumbing Code that may apply from commencement of this instrument and must apply from 1 May 2027.