



# **Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2011<sup>1</sup>**

*Building Energy Efficiency Disclosure Act 2010*

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I, Gregory Ivan Combet, Minister for Climate Change and Energy Efficiency, make this Determination under section 10 of the *Building Energy Efficiency Disclosure Act 2010*.

Dated 8 August 2011

GREGORY IVAN COMBET  
Minister for Climate Change and Energy Efficiency

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**1 Name of Determination**

This Determination is the *Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2011*.

**2 Commencement**

This Determination commences on registration.

**3 Repeal**

The Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2010 (No.2) is repealed.

**4 Definitions**

In this Determination:

*Act* means the *Building Energy Efficiency Disclosure Act 2010*.

**area of a building** includes physically separate spaces within the building that share access to the outside of the building, or that are linked internally to a space that provides such external access, that may be grouped together for the purposes of offering to let or sublet or inviting offers to lease or sublease.

*Note* Refer to section 5 of the Act for the meaning of ‘offering to let or sublet or inviting offers to lease or sublease’.

**fit to be used**, for a support facility, means it:

- (a) is fit for continuous occupation for the performance of administrative, clerical, professional or similar information-based activities; and
- (b) has lighting and ventilation that is adequate and suitable for those activities that is of at least the standard provided for most of the building.

**gross lettable area** and **net lettable area**, for a building or an area of a building, have the same meaning as in the document *Method of Measurement for Lettable Area*, dated March 1997, published by the Property Council of Australia Limited, as in force at the commencement of this Determination.

*Note* The document *Method of Measurement for Lettable Area* is available from the Property Council of Australia Limited’s website at <http://www.propertyoz.com.au>.

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**major refurbishment** means a refurbishment that effects the energy efficiency rating of the base building.

**support facility** means a part of a building that:

- (a) is not used for administrative, clerical, professional or similar information-based activities; and
- (b) is available to support those activities; and
- (c) occupies a space that is fit to be used for those activities; and
- (d) is exclusively for the use of office tenants.

## **5 Disclosure affected buildings**

- (1) For subsection 10 (1) of the Act, this section specifies the kinds of buildings that are disclosure affected.
- (2) Subject to subsections (3), (4) and (5), a building is disclosure affected if:
  - (a) at least 75% of the space in the building by net lettable area (or gross lettable area if net lettable area is not available) is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities; and
  - (b) the net lettable area (or gross lettable area if net lettable area is not available) of the space in the building that is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities, is at least 2000 square metres.
- (3) A building is not, on a particular day, disclosure affected if:
  - (a) it is new; and
  - (b) a certificate of occupancy (however described) indicating that the building is safe for occupancy is required to be issued by a local authority under a law of a State or Territory in order for the building to be occupied and the certificate:
    - (i) has not yet been issued; or
    - (ii) was issued less than 2 years before the day.
- (4) A building is not, on a particular day, disclosure affected if:
  - (a) it has had a major refurbishment; and

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- (b) a certificate of occupancy (however described) indicating that the building is safe for occupancy was required to be issued by a local authority under a law of a State or Territory in order for the building to be occupied and the certificate was issued less than 2 years before the day.
  - (5) A building is not disclosure affected if the building is held under a strata title system (however described) established under a law of a State or Territory.

*Note* See the definition of *disclosure affected building* in the Act.

## **6 Disclosure affected areas of a building**

- (1) For subsection 10 (2) of the Act, this section specifies the kinds of areas of buildings that are disclosure affected.
- (2) Subject to subsections (3), (4) and (5), an area of a building is disclosure affected if:
  - (a) at least 75% of the space in the building by net lettable area (or gross lettable area if net lettable area is not available) is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities; and
  - (b) the net lettable area (or gross lettable area if net lettable area is not available) of the space in the area that is for administrative, clerical, professional or similar information-based activities, including any support facilities for those activities, is at least 2000 square metres.
- (3) An area of a building is not, on a particular day, disclosure affected if:
  - (a) the building in which it is located is new; and
  - (b) a certificate of occupancy (however described) indicating that the building is safe for occupancy is required to be issued by a local authority under a law of a State or Territory in order for the building to be occupied and the certificate:
    - (i) has not yet been issued; or
    - (ii) was issued less than 2 years before the day.
- (4) An area of a building is not, on a particular day, disclosure affected if:
  - (a) the building in which it is located has had a major refurbishment; and

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- (b) a certificate of occupancy (however described) indicating that the building is safe for occupancy was required to be issued by a local authority under a law of a State or Territory in order for the building to be occupied and the certificate was issued less than 2 years before the day.
- (5) An area of a building is not disclosure affected if the area is held under a strata title system (however described) established under a law of a State or Territory.

*Note* See the definition of *disclosure affected area of a building* in the Act.

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## **Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.