

Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2015

*Building Energy Efficiency Disclosure Act 2010*

I, Ian Elgin Macfarlane, Minister for Industry and Science, make this Determination under section 10 of the *Building Energy Efficiency Disclosure Act 2010*.

Dated 25 June 2015

IAN ELGIN MACFARLANE

Minister for Industry and Science

1 Name of Determination

This Determination is the *Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2015.*

2 Commencement

This Determination commences on 1 July 2015.

3 Repeal

The Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2011 is repealed.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 and 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>.

***major refurbishment*** has the meaning given to it in the Regulations.

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

***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:

1. it is new; and
2. 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:
3. has not yet been issued; or
4. was issued less than 2 years before the day.

(4) A building is not, on a particular day, disclosure affected if:

1. it has had a major refurbishment; and
2. 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:

1. the building in which it is located is new; and
2. 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:
3. has not yet been issued; or
4. was issued less than 2 years before the day.

(4) An area of a building is not, on a particular day, disclosure affected if:

1. the building in which it is located has had a major refurbishment; and
2. 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.

**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.