

South Australia

Development (Building Rules Consent—Disability Access) Variation Regulations 2012

under the *Development Act 1993*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Development Regulations 2008*

- 4 Variation of regulation 4—Adoption of Building Code
 - 5 Substitution of regulations 80 and 80A
 - 80 Requirement to upgrade building in certain circumstances (disability access requirements)
 - 80A Modification of Building Code (disability access requirements)
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Building Rules Consent—Disability Access) Variation Regulations 2012*.

2—Commencement

These regulations come into operation on the day on which section 5 of the *Development (Building Rules Consent—Disability Access) Amendment Act 2011* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Development Regulations 2008*

4—Variation of regulation 4—Adoption of Building Code

Regulation 4—after subregulation (3) insert:

- (3a) The *Building Code* is, for the purposes of its adoption by these regulations, further modified as set out in regulation 80A.

5—Substitution of regulations 80 and 80A

Regulations 80 and 80A—delete regulations 80 and 80A and substitute:

80—Requirement to upgrade building in certain circumstances (disability access requirements)

- (1) For the purposes of section 53A(1) of the Act, 1 January 2002 is prescribed.
- (2) For the purposes of section 53A(2) of the Act, an alteration that involves assessment by the relevant authority of the building work against the access provisions of the Building Code is an alteration of a prescribed class.
- (3) Pursuant to section 53A(3) of the Act (but without limiting any other circumstances in which a relevant authority may elect not to require building work or other measures be carried out)—
 - (a) a relevant authority must not require building work or other measures (the *proposed work*) to be carried out under section 53A(2) of the Act if—
 - (i) it would cause unjustifiable hardship (within the meaning of the *Disability (Access to Premises-Buildings) Standards 2010* made under the *Disability Discrimination Act 1992* of the Commonwealth) to require the proposed work to be carried out; or
 - (ii) the lessee of the part of the building that is being altered has submitted the application for building rules consent (other than where the whole of the building is leased by the same lessee); or
 - (iii) the building being altered is a class 2 building that was constructed before 1 May 2011; and
 - (b) a relevant authority must not require building work or other measures to be carried out under section 53A(2) of the Act in relation to an existing lift if the lift—
 - (i) travels more than 12 metres; and
 - (ii) has a floor area of not less than 1 100 millimetres by 1 400 millimetres; and
 - (c) a relevant authority must not require building work or other measures to be carried out under section 53A(2) of the Act in relation to existing sanitary facilities if the sanitary facilities—
 - (i) are suitable for use by people with a disability; and
 - (ii) comply with AS1428.1—2001 *Design for access and mobility Part 1: General requirements for access—new building work*.

(4) In this regulation—

access provisions of the *Building Code* are the requirements within the *Building Code* relating to access to buildings, or facilities and services within buildings, for people with a disability.

80A—Modification of Building Code (disability access requirements)

- (1) The *Building Code* is, for the purposes of its adoption by these regulations, modified in its application to building work in accordance with this regulation.
- (2) A requirement of the *Building Code* relating to access to buildings, or facilities and services within buildings, for people with a disability does not apply to building work if it would cause unjustifiable hardship (within the meaning of the *Disability (Access to Premises-Buildings) Standards 2010* made under the *Disability Discrimination Act 1992* of the Commonwealth) to comply with the requirement.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 6 September 2012

No 204 of 2012

MUDP10/011CS