



Australian Capital Territory

Asbestos Legislation Amendment Act 2006

A2006-16

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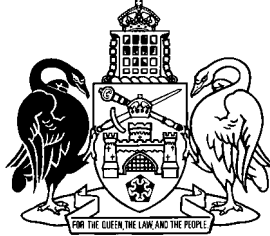
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J2005-686

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Australian Capital Territory

Asbestos Legislation Amendment Act 2006

A2006-16

An Act about the management of asbestos, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2005-686

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Asbestos Legislation Amendment Act 2006*.

2 Commencement

- (1) This Act commences on the 7th day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) However, a date or time provided by a special commencement provision for an amendment made by this Act has effect as the commencement date or time of the amendment.

- (3) In this section:

special commencement provision, for an amendment made by this Act, is a provision, in brackets beginning with the text ‘commencement:’, at the end of the amendment.

Example

An amendment followed by ‘(commencement: on a day fixed by the Minister by written notice)’ means that the amendment commences on the day fixed by the Minister by written notice.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

3 Legislation amended—sch 1

This Act amends the legislation mentioned in schedule 1.

1 **Schedule 1** **Legislation amended**

2 (see s 3)

3 **Part 1.1** **Building Act 2004**

4 **[1.1] New sections 10A and 10B**

5 *insert*

6 **10A Meaning of *minor maintenance work***

7 (1) In this Act:

8 *minor maintenance work* means minor maintenance on premises
9 that is personally done by an individual who owns or occupies the
10 premises.

11 (2) In this section:

12 *minor maintenance* means all or any of the following done in
13 relation to bonded asbestos:

- 14 (a) low speed or hand drilling;
15 (b) sealing;
16 (c) painting;
17 (d) coating;
18 (e) cleaning.

19 **10B Meaning of *disturbs* friable asbestos**

20 For this Act, work *disturbs* friable asbestos if the work increases, or
21 may significantly increase, the risk of the dispersal of asbestos fibres
22 into the air.

- 1 **[1.2] Section 13 (2)**
- 2 *omit*
- 3 the handling of asbestos or disturbance of loose asbestos
- 4 *substitute*
- 5 handling asbestos or disturbing friable asbestos
- 6 **[1.3] Section 13 (2), example**
- 7 *omit*
- 8 Loose asbestos
- 9 *substitute*
- 10 Friable asbestos
- 11 **[1.4] Section 15**
- 12 *substitute*
- 13 **15 Application of pt 3 to building work**
- 14 (1) This part does not apply to—
- 15 (a) building work in relation to an exempt building; or
- 16 (b) building work that is exempt under a regulation.
- 17 (2) However, this part applies to building work mentioned in
- 18 subsection (1) if—
- 19 (a) the work involves—
- 20 (i) handling asbestos; or
- 21 (ii) disturbing friable asbestos; and

- 1 (b) the work is not—
2 (i) minor maintenance work done in accordance with the
3 asbestos code; or
4 (ii) exempt from this subsection under a regulation.

5 **[1.5] Section 26 (2) (b) (ii)**

6 *substitute*

- 7 (ii) the alteration of a building other than a class 1, class 2 or
8 class 10a building; and
9 (c) be accompanied by an asbestos removal control plan if a
10 building to which the building work relates—
11 (i) is a class 1, class 2, class 3 or class 4 building, or a
12 class 10 building associated with a class 1, class 2, class 3
13 or class 4 building; and
14 (ii) was erected before, or the erection of which started
15 before, 1985; and
16 (d) if there is an asbestos assessment report for premises to which
17 the building work relates—be accompanied by a copy of the
18 asbestos assessment report unless the applicant cannot obtain
19 the report after taking reasonable steps.

20 **[1.6] Section 28 (3) to (5)**

21 *substitute*

- 22 (3) If the certifier issues a building approval—
23 (a) the building approval must be marked on, attached to or partly
24 marked on and partly attached to, each page of the plans it
25 relates to; and
26 (b) the certifier must—
27 (i) initial and mark his or her licence number on each page
28 of the plans; and

- 1 (ii) attach each accompanying document to the plans; and
2 (iii) if the accompanying documents do not include an
3 asbestos assessment report—attach an asbestos advice to
4 the plans.
- 5 *Note* If a form is approved under s 151 for a building approval, the form must
6 be used.
- 7 (4) However, if, because of the size of the plans, it is impractical to
8 mark the building approval on each page of the plans, the certifier
9 may, instead of marking the approval under subsection (3) (a), mark
10 each page of the plans with an indication that the approval, or part
11 of the approval, is in a separate document.
- 12 (5) Also, if, because of the size of 1 or more of the accompanying
13 documents (the *relevant documents*), it is impractical to attach the
14 relevant documents to the plans, the certifier may, instead of
15 attaching the relevant documents under subsection (3) (b) (ii), mark
16 each page of the plans with an indication that the relevant
17 documents are separate.
- 18 (6) If the certifier issues the building approval, the certifier must—
19 (a) give to the person who applied for the approval a copy of—
20 (i) the approval; and
21 (ii) the relevant plans; and
22 (iii) if 1 or more of the accompanying documents are not
23 attached to the plans—the accompanying documents that
24 are not attached; and
25 (b) not later than 7 days after the day of issue, give to the
26 construction occupations registrar—
27 (i) a copy of the approval; and
28 (ii) a copy of the relevant plans; and

1 (iii) if 1 or more of the accompanying documents are not
2 attached to the plans—a copy of the accompanying
3 documents that are not attached; and

4 (iv) if notification of the certifier's appointment has not
5 previously been given to the registrar—notification of the
6 appointment.

7 *Note 1* If a form is approved under s 151 for a notification of appointment, the
8 form must be used.

9 *Note 2* A fee may be determined under s 150 for this section.

10 (7) In this section:

11 ***accompanying document***, in relation to a building approval, means
12 a document required to accompany the application for the building
13 approval.

14 *Note* Section 26 requires certain documents to accompany applications for
15 building approval and allows other material required to accompany
16 applications to be prescribed by regulation.

17 **[1.7] Section 29 (1) (d)**

18 *substitute*

19 (d) if an asbestos removal control plan is required to accompany
20 the application—the plan complies with the asbestos code;

21 (e) the building as proposed to be erected or altered will be
22 structurally sufficient, safe and stable.

23 **[1.8] Sections 42 (1) (d) and 42A (1)**

24 *omit*

25 the handling of asbestos or disturbance of loose asbestos

26 *substitute*

27 handling asbestos or disturbing friable asbestos

- 1 **[1.9] New section 42A (3A)**
- 2 *insert*
- 3 (3A) It is a defence to a prosecution for an offence against subsection (2)
- 4 if the defendant proves that—
- 5 (a) the carrying out of the building work contravened section 42
- 6 only because friable asbestos was disturbed in carrying out the
- 7 work; and
- 8 (b) either—
- 9 (i) the defendant took reasonable steps to minimise the risk
- 10 of friable asbestos being disturbed; or
- 11 (ii) the disturbing of the friable asbestos happened in the
- 12 defendant taking reasonable steps to minimise the risks
- 13 resulting from the disturbance of the friable asbestos.

14 **[1.10] Section 65**

15 *substitute*

- 16 **65 Application of pt 5 to building work**
- 17 (1) This part does not apply to building work in relation to an exempt
- 18 building.
- 19 (2) However, this part applies to building work mentioned in
- 20 subsection (1) if—
- 21 (a) the work involves—
- 22 (i) handling asbestos; or
- 23 (ii) disturbing friable asbestos; and

- 1 (b) the work is not—
2 (i) minor maintenance work done in accordance with the
3 asbestos code; or
4 (ii) exempt from this subsection under a regulation.

5 **[1.11] Section 66**

6 *omit*

7 the handling of asbestos or disturbance of loose asbestos

8 *substitute*

9 handling asbestos or disturbing friable asbestos

10 **[1.12] Section 79 heading**

11 *substitute*

12 **79 Action by registrar on unauthorised use of building etc**

13 **[1.13] Section 83**

14 *substitute*

15 **83 Application of pt 6 to building work**

- 16 (1) This part does not apply to—
17 (a) building work in relation to an exempt building; or
18 (b) building work that is exempt under a regulation.
19 (2) However, this part applies to building work mentioned in
20 subsection (1) if—
21 (a) the work involves—
22 (i) handling asbestos; or
23 (ii) disturbing friable asbestos; and

- 1 (b) the work is not—
2 (i) minor maintenance work done in accordance with the
3 asbestos code; or
4 (ii) exempt from this subsection under a regulation.

5 **[1.14] Section 88 (2) (b) (ii)**

6 *omit*

7 the handling of asbestos or disturbance of loose asbestos

8 *substitute*

9 handling asbestos or disturbing friable asbestos

10 **[1.15] Section 134**

11 *omit*

12 land or

13 **[1.16] Part 8 heading**

14 *substitute*

15 **Part 8 Codes and standards**

16 **Division 8.1 Building code and recognised**
17 **standards**

1 **[1.17] New division 8.2**

2 *insert*

3 **Division 8.2 Asbestos code**

4 **139B Approval of asbestos code**

- 5 (1) The Minister may approve codes of practice for this Act.

6 *Note* A power given under an Act to make a statutory instrument (including a
7 code of practice) includes power to amend or repeal the instrument (see
8 Legislation Act, s 46 (1)).

- 9 (2) A code of practice may—

10 (a) set out practices, standards and other matters about building
11 work if the work involves the use, handling or disposal of
12 asbestos; and

13 (b) be approved as in force from time to time.

- 14 (3) An approved code of practice is a disallowable instrument.

15 *Note 1* A disallowable instrument must be notified, and presented to the
16 Legislative Assembly, under the Legislation Act.

17 *Note 2* An amendment or repeal of a code of practice is also a disallowable
18 instrument (see Legislation Act, s 46 (2)).

- 19 (4) The construction occupations registrar must make a copy of the
20 asbestos code, and any instrument (or provision of an instrument)
21 applied (with or without change) by the asbestos code, available for
22 public inspection during ordinary office hours at—

23 (a) the office of the construction occupations registrar; or

24 (b) another place prescribed by regulation.

- 25 (5) In this section:

26 *applied* includes adopted and incorporated.

- 1 **[1.18] Dictionary, new definitions**
- 2 *insert*
- 3 *asbestos advice*—see the *Dangerous Substances Act 2004*,
- 4 section 47J.
- 5 *asbestos assessment report*, for premises—see the *Dangerous*
- 6 *Substances Act 2004*, section 47K.
- 7 *asbestos code* means the codes of practice that are approved under
- 8 section 139B.
- 9 *asbestos removal control plan*, in relation to building work, means a
- 10 plan, complying with the asbestos code, that provides for the
- 11 management of any asbestos disturbance resulting from the building
- 12 work.
- 13 *bonded asbestos* means asbestos in a form where the asbestos fibres
- 14 are held within another material (for example, cement) but does not
- 15 include friable asbestos.
- 16 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 17 does not limit, the meaning of the provision in which it appears (see
- 18 Legislation Act, s 126 and s 132).
- 19 *disturbs* friable asbestos—see section 10B.
- 20 *friable asbestos* means asbestos, whether or not contained in other
- 21 material, that—
- 22 (a) is crumbly, dusty or powdery; or
- 23 (b) when dry, can be crumbled, pulverised or reduced to powder
- 24 by hand pressure.
- 25 **Examples of friable asbestos**
- 26 1 sprayed asbestos coating or insulation
- 27 2 asbestos lagging

1 3 loose asbestos, asbestos in its raw form

2 *Note* An example is part of the Act, is not exhaustive and may extend, but
3 does not limit, the meaning of the provision in which it appears (see
4 Legislation Act, s 126 and s 132).

5 *handling* asbestos—to remove any doubt, *handling* asbestos
6 (including friable asbestos) includes disturbing the asbestos.

7 *minor maintenance work*—see section 10A.

8 *premises* includes land or a structure and any part of an area of land
9 or a structure.

10 **Part 1.2 Building Regulation 2004**

11 **[1.19] Sections 4A and 4B**

12 *substitute*

13 **4A Meaning of *building work*—Act, s 6 (2) (a) and (b)**

14 *Building work* includes building work that involves handling
15 asbestos or disturbing friable asbestos.

16 **Examples of handling asbestos or disturbing friable asbestos**

17 1 removal of asbestos

18 2 cutting a hole in a sheet of asbestos

19 *Note* An example is part of the regulation, is not exhaustive and may extend,
20 but does not limit, the meaning of the provision in which it appears (see
21 Legislation Act, s 126 and s 132).

22 **4B Meaning of *specialist building work*—Act, s 9 (b)**

23 (1) *Specialist building work* includes building work that involves
24 handling asbestos or disturbing friable asbestos.

25 (2) For subsection (1), *handling* asbestos does not include handling
26 bonded asbestos that forms part of a residential building.

1 **[1.20] Section 7 heading**

2 *substitute*

3 **7 Exempt building work—Act, s 15 (1) (b) and s 83 (1) (b)**

4 **[1.21] New section 7A**

5 *insert*

6 **7A Exempt building work involving asbestos—Act,**
7 **s 15 (1) (b) and (2), s 65 (2) and s 83 (1) (b) and (2)**

8 (1) Building work that involves handling asbestos is exempt building
9 work if—

10 (a) the asbestos is bonded asbestos; and

11 (b) not more than 10m² of asbestos is handled during the building
12 work; and

13 (c) each person who handles the asbestos—

14 (i) works in a prescribed occupation; and

15 (ii) has a relevant asbestos qualification; and

16 (d) the asbestos is handled by each person who handles it in the
17 course of the person's occupation.

18 (2) The construction occupations registrar may declare—

19 (a) an occupation to be a prescribed occupation; or

20 (b) a qualification to be a relevant asbestos qualification.

21 (3) A declaration is a notifiable instrument.

22 *Note* A notifiable instrument must be notified under the Legislation Act.

23 (4) In this section:

24 *building surveyor*—see the *Construction Occupations (Licensing)*
25 *Act 2004*, section 9.

1 *construction occupation*—see the *Construction Occupations*
2 *(Licensing) Act 2004*, section 7.

3 *plumbing plan certifier*—see the *Construction Occupations*
4 *(Licensing) Act 2004*, section 14.

5 *prescribed occupation* means—

6 (a) a construction occupation, other than building surveyor or
7 plumbing plan certifier; or

8 (b) an occupation declared to be a prescribed occupation under
9 subsection (2).

10 *relevant asbestos qualification* means a qualification declared to be
11 a relevant asbestos qualification under subsection (2).

12 **[1.22] Sections 12A and 14A**

13 *omit*

14 stable asbestos cement sheeting

15 *substitute*

16 bonded asbestos

17 **[1.23] Section 15 (1) (h) (ii)**

18 *substitute*

19 (ii) any waste management plan provided in the application;
20 and

21 (iii) any asbestos removal control plan provided in the
22 application;

1 **Part 1.3** **Civil Law (Sale of Residential**
2 **Property) Act 2003**

3 **[1.24] Section 9 (1) (i)**

4 *substitute*

5 (i) if there are premises covered by the proposed contract and
6 there is a current asbestos assessment report for the premises
7 (or some or all of them)—a copy of each current asbestos
8 assessment report;

9 (j) if there are premises covered by the proposed contract, but
10 there is no current asbestos assessment report for the premises
11 (or any of them), or, if a current asbestos assessment report for
12 the premises (or any of them) exists but the seller cannot, after
13 taking reasonable steps, find or get the report—an asbestos
14 advice;

15 (k) any other document prescribed by regulation.

16 **[1.25] Section 9 (3) (b)**

17 *substitute*

18 (b) has the professional indemnity insurance (if any) required by
19 regulation.

20 **[1.26] Section 9 (4), new definitions**

21 *insert*

22 *asbestos advice*—see the *Dangerous Substances Act 2004*,
23 section 47J.

24 *asbestos assessment report*, for premises—see the *Dangerous*
25 *Substances Act 2004*, section 47K.

1 *current asbestos assessment report*, for premises, means an
2 asbestos assessment report for the premises if the premises have not
3 been changed, since the report was made, in a way that would affect
4 the accuracy of the report.

5 *premises* includes land or a structure and any part of an area of land
6 or a structure.

7 **[1.27] Section 11 (1) (i)**

8 *omit*

9 section 9 (1) (a) to (i)

10 *substitute*

11 section 9 (1) (a) to (k)

12 **Part 1.4 Construction Occupations**
13 **(Licensing) Act 2004**

14 **[1.28] Section 7**

15 *substitute*

16 **7 What is a *construction occupation*?**

17 Each of the following is a *construction occupation*:

18 (a) asbestos assessor;

19 (b) asbestos removalist;

20 (c) builder;

21 (d) building surveyor;

22 (e) drainer;

23 (f) electrician;

24 (g) gasfitter;

- 1 (h) plumber;
2 (i) plumbing plan certifier.

3 **7A Who is an asbestos assessor?**

- 4 (1) An *asbestos assessor* is an individual who provides, has provided or
5 proposes to provide an asbestos assessment service.
- 6 (2) An *asbestos assessment service* is the doing or supervising of all or
7 any of the following work for this Act, the *Building Act 2004*, the
8 *Civil Law (Sale of Residential Property) Act 2003*, the *Dangerous*
9 *Substances Act 2004* or the *Residential Tenancies Act 1997*:
- 10 (a) air monitoring for asbestos;
11 (b) identifying the location, type and condition of asbestos in
12 buildings, including by taking samples;
13 (c) assessing the risk resulting from the identified asbestos;
14 (d) advising on how the asbestos should be managed;
15 (e) reporting about the work mentioned in paragraphs (a) to (c).

16 **7B What is an asbestos removalist?**

- 17 (1) An *asbestos removalist* is an entity that provides, has provided or
18 proposes to provide an asbestos removal service.
- 19 (2) An *asbestos removal service* is the doing or supervising of building
20 work that involves all or any of the following:
- 21 (a) handling (including disturbing) asbestos in buildings;
22 (b) removing and disposing of asbestos from buildings.

1 **[1.29] Section 8 (2)**

2 *substitute*

- 3 (2) A **building service** is the doing or supervising of building work,
4 other than building work that involves handling asbestos or
5 disturbing friable asbestos.

6 *Note* **Building work**—see the *Building Act 2004*, section 6.

- 7 (3) In this section:

8 **disturbs** friable asbestos—see the *Building Act 2004*, section 10B.

9 **friable asbestos**—see the *Building Act 2004*, dictionary.

10 **specialist building work**—see the *Building Regulation 2004*,
11 section 4B.

12 (commencement: on a day fixed by the Minister by written notice)

13 **[1.30] Section 16**

14 *substitute*

15 **16 What is an operational Act?**

16 Each of the following is an **operational Act**:

- 17 • *Building Act 2004*
18 • *Dangerous Substances Act 2004*
19 • *Electricity Safety Act 1971*
20 • *Gas Safety Act 2000*
21 • *Utilities Act 2000*
22 • *Water and Sewerage Act 2000*.

23 *Note* A reference to an Act includes a reference to the statutory instruments
24 made or in force under the Act, including regulations (see Legislation
25 Act, s 104).

26 (commencement: on a day fixed by the Minister by written notice)

- 1 (b) the builders licence was endorsed to authorise the person to do
2 building work that involves handling asbestos or disturbing
3 friable asbestos.
- 4 (2) The builders licence continues to authorise the person to do the
5 building work.
- 6 (3) If the person's builders licence expires earlier than 1 year after the
7 commencement of this section and is renewed, the licence as
8 renewed authorises the person to do the building work until 1 year
9 after the day this section commences.

10 **156 Renewal of building surveyor licences**

- 11 (1) This section applies to the renewal of a licence as a building
12 surveyor if the applicant for renewal was licensed immediately
13 before the commencement of this section.
- 14 (2) Despite section 25 (2), the registrar may renew the applicant's
15 licence if—
- 16 (a) the registrar is satisfied that the applicant would be eligible to
17 be licensed under this Act as in force immediately before the
18 commencement of this section if the application were for a new
19 licence of the same kind; and
- 20 (b) the renewal starts not later than 1 year after the day this section
21 commences.

22 **157 Expiry—pt 15**

- 23 This part expires 1 year after the day it commences.
24 (commencement: on a day fixed by the Minister by written notice)

1 **[1.33] Dictionary, new definitions**

2 *insert*

3 *asbestos assessment service*—see section 7A (2).

4 *asbestos assessor*—see section 7A (1).

5 *asbestos removalist*—see section 7B (1).

6 *asbestos removal service*—see section 7B (2).

7 **Part 1.5 Construction Occupations**
8 **(Licensing) Regulation 2004**

9 **[1.34] Section 5 (h)**

10 *substitute*

11 (h) if the application is for a licence as an asbestos assessor,
12 building surveyor or plumbing plan certifier—the name of the
13 insurer who will provide the insurance mentioned in
14 section 16A (Eligibility to be asbestos assessor), section 17
15 (Eligibility to be building surveyor) or section 18 (Eligibility to
16 be plumbing plan certifier);

17 **[1.35] Section 8**

18 *substitute*

19 **8 Term of licence for asbestos assessors, building**
20 **surveyors and plumbing plan certifiers—Act, s 24**

21 (1) This section applies to a licence in the construction occupation of
22 asbestos assessor, building surveyor or plumbing plan certifier.

23 (2) The maximum period for which a licence may be issued is 1 year.

- 1 (3) However, if the applicant for the issue or renewal of the licence has
2 insurance required under this regulation for a period of less than
3 1 year, the maximum period for which the licence may be issued or
4 renewed is the period for which the applicant has insurance.

5 **[1.36] Section 9 (1) (c)**

6 *substitute*

- 7 (c) if the licensee is an asbestos assessor, building surveyor or
8 plumbing plan certifier—the name of the insurer who provides
9 the insurance mentioned in section 16A (Eligibility to be
10 asbestos assessor), section 17 (Eligibility to be building
11 surveyor) or section 18 (Eligibility to be plumbing plan
12 certifier) or the regulations;

13 **[1.37] Section 15 (1)**

14 *substitute*

- 15 (1) A corporation or partnership is eligible to be licensed only in the
16 following construction occupations or occupation classes:
17 (a) asbestos removalist;
18 (b) builder;
19 (c) building surveyor;
20 (d) drainer;
21 (e) electrician, electrical contractor class;
22 (f) gasfitter;
23 (g) plumber;
24 (h) plumbing plan certifier.

1 **[1.38] New section 15A**

2 *insert*

3 **15A Eligibility to be asbestos removalist**

4 (1) An applicant for a licence as an asbestos removalist is eligible for
5 the licence only if the applicant satisfies the registrar that the
6 applicant has qualifications or experience necessary for the
7 applicant to provide, and understand the minimum health and safety
8 requirements in relation to, the asbestos removal services for which
9 the licence is sought.

10 (2) In this section:

11 *asbestos removal service*—see the Act, section 7B (2).

12 **[1.39] Section 17**

13 *substitute*

14 **16A Eligibility to be asbestos assessor**

15 An applicant for a licence to be an asbestos assessor is eligible for
16 the licence only if the applicant satisfies the registrar that the
17 applicant is adequately insured.

18 **17 Eligibility to be building surveyor**

19 (1) An applicant for a licence as a building surveyor is eligible for the
20 licence only if the applicant satisfies the registrar that—

21 (a) the applicant has successfully undertaken asbestos
22 management training that has been approved by the registrar
23 under subsection (2); and

24 (b) the applicant is adequately insured.

25 (2) The registrar may approve asbestos management training for
26 subsection (1)(a) if the registrar considers that successful
27 undertaking of the training will give an applicant for a licence as a

- 1 building surveyor adequate knowledge of the requirements to deal
2 appropriately with asbestos.
- 3 (3) Subsection (1) (b) does not apply to an application for a licence as
4 principal government building surveyor or government building
5 surveyor.
- 6 (4) A person is *adequately insured* if the person has professional
7 indemnity insurance that provides—
- 8 (a) indemnity against claims for breach of professional duty as a
9 building surveyor; and
- 10 (b) a minimum limit of indemnity of \$1 000 000 for a single claim;
11 and
- 12 (c) a minimum limit of indemnity of \$1 000 000 for the total of all
13 claims made against the person during the period of cover; and
- 14 (d) in addition to the indemnities mentioned in paragraphs (b) and
15 (c), a minimum limit of indemnity for the costs and expenses
16 of defending or settling a claim of 20% of the limit of
17 indemnity for the claim.
- 18 (5) For subsection (4), a person is taken to have professional indemnity
19 insurance if the person is an applicant for a principal building
20 surveyor employee licence, or general building surveyor employee
21 licence, and the person's employer has the insurance.
- 22 (6) In subsection (4) (d):
- 23 *costs and expenses* means costs and expenses incurred with the
24 insurer's consent.
- 25 (7) An approval under subsection (2) is a notifiable instrument.
- 26 *Note* A notifiable instrument must be notified under the Legislation Act.
27 (commencement: on a day fixed by the Minister by written notice)

- 1 **[1.40] New section 35 (1A)**
- 2 *insert*
- 3 (1A) However, if the building services involve asbestos removal,
4 subsection (1) applies to the building services only if the individual
5 providing the services has a relevant asbestos qualification.
- 6 **[1.41] Section 35 (2), new definition of *relevant asbestos***
7 ***qualification***
- 8 *insert*
- 9 *relevant asbestos qualification*—see the *Building Regulation 2004*,
10 section 7A (4).
- 11 **[1.42] New sections 36A and 36B**
- 12 *insert*
- 13 **36A Classes of asbestos assessor**
- 14 The construction occupation of asbestos assessor is divided into the
15 classes in schedule 1, part 1.1A, column 2.
- 16 **36B Classes of asbestos removalist**
- 17 The construction occupation of asbestos removalist is divided into
18 the classes in schedule 1, part 1.1B, column 2.

1 **[1.43] Schedule 1, new parts 1.1A and 1.1B**

2 *before part 1.1, insert*

3 **Part 1.1A Asbestos assessor**

column 1 item	column 2 construction occupation class	column 3 construction work
1	class A	(a) providing an asbestos assessment service; and (b) doing anything allowed to be done under a class B licence <i>Note 1</i> <i>Asbestos assessment service</i> —see the Act, s 7A (2). <i>Note 2</i> An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
2	class B	undertake field surveys to identify the location, type and condition of asbestos in buildings for this Act, the <i>Building Act 2004</i> , the <i>Civil Law (Sale of Residential Property) Act 2003</i> , the <i>Dangerous Substances Act 2004</i> or the <i>Residential Tenancies Act 1997</i> , including, for example, by bulk sampling

1 **Part 1.1B Asbestos removalist**

column 1 item	column 2 construction occupation class	column 3 construction work
1	class A	providing an asbestos removal service <i>Note</i> <i>Asbestos removal service</i> —see the Act, s 7B (2).
2	class B	providing an asbestos removal service for bonded asbestos

2 **[1.44] Schedule 1, part 1.1**

3 *omit*
4 specialist building work
5 *substitute*
6 specialist building work or handling asbestos
7 (commencement: on a day fixed by the Minister by written notice)

8 **[1.45] Schedule 1**

9 *renumber parts when regulation next republished under Legislation*
10 *Act*

11 **[1.46] Dictionary, new definitions of *bonded asbestos* and**
12 ***friable asbestos***

13 *insert*
14 *bonded asbestos*—see the *Building Act 2004*, dictionary.
15 *friable asbestos*—see the *Building Act 2004*, dictionary.

1 **Part 1.6 Dangerous Substances Act 2004**

2 **[1.47] Part 3A.4**

3 *substitute*

4 **Part 3A.4 Asbestos advice and assessment**
5 **reports**

6 **47J Asbestos advice**

7 (1) The Minister must prepare an advice (an *asbestos advice*) about the
8 likely location of asbestos in residential premises built, or the
9 building of which started, before 1985.

10 (2) An asbestos advice is a notifiable instrument.

11 *Note* A notifiable instrument must be notified under the Legislation Act.

12 **47K Asbestos assessment reports**

13 (1) An *asbestos assessment report*, for residential premises, is a report
14 prepared by an asbestos assessor that—

15 (a) identifies the location, type and condition of asbestos in
16 relation to the premises; and

17 (b) assesses the risk resulting from the identified asbestos; and

18 (c) advises how the asbestos should be managed; and

19 (d) includes everything required by regulation to be included in the
20 report.

21 (2) In this section:

22 *asbestos assessor* means a person who is licensed under the
23 *Construction Occupations (Licensing) Act 2004* in the construction
24 occupation of asbestos assessor class A.

- 1 **47L** **Requirement to give asbestos assessment report**
- 2 (1) This section applies if—
- 3 (a) there is an asbestos assessment report for residential premises;
- 4 and
- 5 (b) an owner, or occupier, (the *owner*) of the premises engages
- 6 someone (the *worker*) to—
- 7 (i) provide a construction service at the premises; or
- 8 (ii) do other work prescribed by regulation.
- 9 (2) The owner must give the worker a copy of the asbestos assessment
- 10 report for the premises.
- 11 (3) However, the owner need not give the worker a copy of the asbestos
- 12 assessment report for the premises—
- 13 (a) if the owner cannot obtain a copy of the report after taking
- 14 reasonable steps; or
- 15 (b) if the work is a response to an emergency situation.
- 16 (4) In this section:
- 17 *construction service*—see the *Construction Occupations*
- 18 (*Licensing*) Act 2004, section 6 (2).

19 **Part 1.7** **Residential Tenancies Act 1997**

20 **[1.48] Section 12 (3) (d)**

21 *substitute*

- 22 (d) if the premises are crisis accommodation provided by a
- 23 declared crisis accommodation provider—a statement
- 24 explaining that the lessor can terminate the agreement on
- 25 4 weeks notice if the lessor needs the premises to use as crisis
- 26 accommodation for someone other than the tenant;

- 1 (e) if there is an asbestos assessment report for the premises and
2 the lessor can obtain a copy of the report after taking
3 reasonable steps—a copy of the report;
- 4 (f) if there is no asbestos assessment report for the premises or the
5 lessor cannot obtain the asbestos assessment report for the
6 premises after taking reasonable steps—an asbestos advice for
7 the premises.

8 **[1.49] New part 11**

9 *insert*

10 **Part 11 Transitional—Asbestos**
11 **Legislation Amendment Act 2006**

12 **140 Existing residential tenancy agreements—lessor must**
13 **provide asbestos information**

- 14 (1) This section applies in relation to a residential tenancy agreement
15 entered into before the commencement of this section that is in force
16 on the commencement of this section.
- 17 (2) Not later than 1 year after the commencement of this section, the
18 lessor must give the tenant—
- 19 (a) if there is an asbestos assessment report for the premises and
20 the lessor can obtain a copy of the report after taking
21 reasonable steps—a copy of the report; and
- 22 (b) if there is no asbestos assessment report for the premises or the
23 lessor cannot obtain the asbestos assessment report for the
24 premises after taking reasonable steps—an asbestos advice for
25 the premises.
- 26 (3) Subsection (2) does not apply if the tenant does not live at the
27 premises covered by the residential tenancy agreement 1 year after
28 the commencement of this section.

1 **141 Expiry—pt 11**

2 This part expires 1 year after the day it commences.

3 **[1.50] Dictionary, new definitions**

4 *insert*

5 *asbestos advice*—see the *Dangerous Substances Act 2004*,
6 section 47J.

7 *asbestos assessment report*, for premises—see the *Dangerous*
8 *Substances Act 2004*, section 47K.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 March 2006.

2 Notification

Notified under the Legislation Act on 18 May 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Asbestos Legislation Amendment Bill 2006, which was passed by the Legislative Assembly on 2 May 2006.

Clerk of the Legislative Assembly