



Australian Capital Territory

Building (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015

A2015-42

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Australian Capital Territory

Building (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015

A2015-42

An Act to amend legislation about loose-fill asbestos insulation, and for other purposes

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

J2015-411

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

Part 1 Preliminary

1 Name of Act

This Act is the *Building (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015*.

2 Commencement

- (1) This Act (other than part 4) commences on a day fixed by the Minister by written notice.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

- (2) Part 4 commences on the commencement of the *Dangerous Substances (General) Amendment Regulation 2015 (No 2)*, section 5.

3 Legislation amended

This Act amends the following legislation:

- *Building Act 2004*
- *Building and Construction Industry Training Levy Act 1999*
- *Building (General) Regulation 2008*
- *Civil Law (Sale of Residential Property) Act 2003*
- *Dangerous Substances (General) Regulation 2004*
- *Electricity Feed-in (Renewable Energy Premium) Act 2008*
- *Land Rent Act 2008*

- *Land Rent Regulation 2008*
- *Planning and Development Act 2007*
- *Planning and Development Regulation 2008*
- *Residential Tenancies Act 1997*
- *Taxation Administration Regulation 2004.*

Part 2 Building Act 2004

4 Notification by certifier of contraventions of building and development approvals—building work Section 50 (1) (a)

omit

part 4 (Stop and demolition notices)

substitute

part 4 (Stop and other notices and demolition orders)

5 Part 4 heading

substitute

Part 4 Stop and other notices and demolition orders

6 Section 52

substitute

52 Definitions—pt 4

In this part:

custodian—see the *Planning and Development Act 2007*, section 333.

easement includes an area of land identified as an easement for electricity, telecommunication, water, drainage and sewerage services in, on or over the land on—

- (a) a certificate of title; or
- (b) a deposited plan under the *Districts Act 2002*.

7 **Preconditions for s 62 notice**
New section 61 (ca)

insert

- (ca) demolition of a building, in relation to which a demolition order has been issued under section 63A (Demolition orders—affected residential premises and eligible impacted property) has been carried out otherwise than in accordance with the order;

8 **New sections 63A to 63E**

insert

63A **Demolition orders—affected residential premises and eligible impacted property**

- (1) This section applies to the following buildings:
- (a) a building that—
- (i) is listed on the affected residential premises register; and
 - (ii) is—
 - (A) vested in, or subject to the control of, the Territory; or
 - (B) acquired by the Territory under the buyback scheme;
- (b) a building that—
- (i) is an eligible impacted property; and
 - (ii) is acquired by the Territory under the eligible impacted property buyback program.

- (2) The custodian of the land on which the building is located may apply to the construction occupations registrar for an order (a **demolition order**) to demolish the building.

Note If a form is approved under s 151 for this provision, the form must be used.

- (3) Before applying to the construction occupations registrar for a demolition order, the custodian of the land on which the building is located must consult with the relevant directors-general in relation to—

- (a) the asbestos removal control plan (if required); and

Note **Asbestos removal control plan**—see the dictionary.

- (b) the waste management plan.

- (4) An application must be accompanied by—

- (a) details of the methods to be used in carrying out the demolition, including a work plan in accordance with AS 2601 (The demolition of structures), as in force from time to time; and

- (b) the plans for the demolition, prepared in accordance with the prescribed requirements; and

- (c) for a building mentioned in subsection (1) (a)— a copy of the asbestos assessment report for premises to which the demolition relates; and

- (d) the asbestos removal control plan (if required); and

- (e) the waste management plan; and

- (f) if a regulation prescribes that an entity's advice on the application must be sought—the entity's advice.

- (5) The construction occupations registrar may issue a demolition order for demolition of the building if satisfied on reasonable grounds that—
- (a) the consultation required under subsection (3) has happened; and
 - (b) a building approval is not necessary.

Example—building approval is necessary

The demolition of half a duplex has complex safety issues. The construction occupations registrar is not satisfied that the demolition can be carried out safely without inspection and certification by a certifier. As the registrar is not satisfied that a building approval is necessary, the registrar may not issue a demolition 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).

- (6) The construction occupations registrar may be satisfied on reasonable grounds that the consultation required under subsection (3) has happened if—
- (a) a copy of the asbestos removal control plan (if required) and the waste management plan is given to the relevant directors-general; and
 - (b) 10 working days have elapsed after the day the copy was given.
- (7) A demolition order is in force for 2 years after the day the order is issued.
- (8) The [Legislation Act](#), section 47 (6) does not apply in relation to an Australian Standard, or an Australian/New Zealand Standard, applied, adopted or incorporated as in force from time to time under this section.

Note The standard may be purchased at www.standards.org.au.

(9) In this section:

affected residential premises register—see the *Dangerous Substances Act 2004*, section 47N (1).

buyback scheme—see the *Dangerous Substances Act 2004*, section 47N (6).

eligible impacted property—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

eligible impacted property buyback program—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

relevant directors-general means the following:

- (a) the director-general of the administrative unit responsible for municipal services;
- (b) the director-general of the administrative unit responsible for the *Dangerous Substances Act 2004*;
- (c) the director-general of the administrative unit responsible for the *Work Health and Safety Act 2011*.

63B When demolition orders not to be issued—advice on referral

- (1) This section applies to an application to the construction occupations registrar for a demolition order if—
 - (a) a regulation requires the advice of an entity to be sought on the application; and
 - (b) the entity’s advice has been given as prescribed by regulation.
- (2) The construction occupations registrar must not issue the demolition order unless satisfied on reasonable grounds that—
 - (a) issuing the demolition order would be consistent with the entity’s advice; or

- (b) the advice is not advice that the entity is authorised by regulation to give.
- (3) If an entity's advice must be sought on an application to the construction occupations registrar for a demolition order, a regulation may prescribe the following:
 - (a) the advice the entity may give;
 - (b) when the advice of the entity must be given;
 - (c) anything else in relation to the advice.

63C Requirement to give advice in relation to proposed demolition

- (1) This section applies if—
 - (a) an entity's advice on an application for a demolition order has been sought as prescribed by regulation; and
 - Note* See s 63B (3) (When demolition orders not to be issued—advice on referral).
 - (b) the entity—
 - (i) has given advice on the application; or
 - (ii) has not given advice within the time prescribed for giving the advice; and
 - (c) the construction occupations registrar has issued the demolition order; and
 - (d) the plans for the demolition are substantially consistent with the advice.
- (2) For this section, if an entity fails to give advice sought within the time prescribed by regulation in relation to the application for a demolition order referred to the entity, the entity is taken to have given advice that the entity supports the application.

- (3) The entity must not act inconsistently with the advice in relation to the application for the demolition order unless—
- (a) further information in relation to the demolition proposed in the application comes to the entity's attention (other than information mentioned in subsection (4)); and
 - (b) the entity did not have the further information when the entity gave the advice; and
 - (c) the further information is relevant to the advice the entity gave; and
 - (d) the entity would have given different advice if the entity had the further information before giving the advice.
- (4) Subsection (3) (a) does not apply to further information in relation to the demolition proposed in the application for the demolition order if the information—
- (a) was not required in the application; and
 - (b) is required by the entity after the demolition order is made; and
 - (c) is consistent in all significant respects with information already provided by the applicant, except that it is more detailed.
- (5) For this section, an entity *acts inconsistently* with advice in relation to an application for a demolition order if—
- (a) the advice is that the entity will issue or give an approval or other thing in relation to the demolition order; and
 - (b) the demolition order is made; and
 - (c) the entity—
 - (i) does not issue or give the approval or other thing consistent with the advice; or

- (ii) issues or gives the approval or other thing in a way, or subject to a condition, that prevents the applicant carrying out the demolition under the demolition order.
- (6) Also for this section, an entity *acts inconsistently* with advice in relation to an application for a demolition order if—
 - (a) the advice is that an activity to which the application relates does not require a particular authorisation (however described); and
 - (b) the entity prosecutes someone, or takes other compliance action, in relation to the activity because the activity is carried out without the particular authorisation.
- (7) Also for this section, an entity *acts inconsistently* with advice in relation to an application for a demolition order if the entity—
 - (a) refuses to do something required to be done by the entity to allow the applicant to carry out the demolition under the demolition order; or
 - (b) does something in a way, or subject to a condition, that prevents the applicant from carrying out the demolition under the demolition order.

63D Demolition orders—application of pt 3

Part 3 (Building work), other than section 42 (1) (c), section 42 (1) (e) (ii) and section 42 (2), does not apply to the demolition of a building if—

- (a) the construction occupations registrar has issued a demolition order to demolish the building; and
- (b) the order is in force; and
- (c) the demolition is carried out in accordance with the demolition order.

63E Completion of demolition work—affected residential premises and eligible impacted property

- (1) This section applies if a building the subject of a demolition order has been demolished.
- (2) The custodian of the land on which the building was located may apply to the construction occupations registrar for a certificate to the effect that the demolition has been carried out in accordance with the demolition order (a *demolition certificate*).
- (3) The construction occupations registrar may, by written notice, ask the custodian of the land on which the building was located, for further information in relation to the demolition.
- (4) The construction occupations registrar must issue a demolition certificate if the construction occupations registrar is satisfied that—
 - (a) any further information required under subsection (3) has been provided; and
 - (b) the demolition has been carried out in accordance with the demolition order.

**9 Inspection of building work where no approval
Section 131 (1) (b)**

omit

part 4 (Stop and demolition notices)

substitute

part 4 (Stop and other notices and demolition orders)

**10 Power to authorise required work
Section 133**

omit

part 4 (Stop and demolition notices)

substitute

part 4 (Stop and other notices and demolition orders)

**11 Recovery of costs of work carried out by inspector
Section 147**

omit

part 4 (Stop and demolition notices)

substitute

part 4 (Stop and other notices and demolition orders)

12 Dictionary, new definitions

insert

custodian, for part 4 (Stop and other notices and demolition orders)—see section 52.

demolition order—see section 63A (2).

13 Dictionary, definition of *easement*

omit

part 4 (Stop and demolition notices)

substitute

part 4 (Stop and other notices and demolition orders)

Part 3 Building and Construction Industry Training Levy Act 1999

14 Assessment of value of work Section 19 (1) (a)

substitute

- (a) if the work is building work under a demolition order—the value agreed by the authority and the project owner or, if they disagree, the value assessed by a qualified valuer agreed by the authority and the owner; or
- (aa) if the work is building work to which paragraph (a) does not apply—the value used to work out the fee payable under the [Building Act](#) in relation to the issue of the building approval for the work; or

15 New section 19 (3)

insert

- (3) In this section:

demolition order means a demolition order under the [Building Act 2004](#), section 63A (Demolition orders—affected residential premises and eligible impacted property).

Part 4 Building (General) Regulation 2008

16 New division 3.6

insert

Division 3.6 Demolition orders

36A General requirements for plans—Act, s 63A

- (1) This section applies to plans accompanying an application for a demolition order to demolish a building.
- (2) The plans must—
 - (a) be drawn in accordance with AS 1100, unless the plans were drawn before the standard commenced; and

Note The standard may be purchased at www.standards.org.au.

 - (b) show any area covered by the plans that is marked on a certificate of title or deposited plan as an easement; and
 - (c) if the demolition will require the disconnection of a pipe to the sewerage system—show any point of disconnection of the pipe to the sewerage system; and
 - (d) if the demolition will require the disconnection of a pipe to a water main—show any point of disconnection of the pipe to the water main; and
 - (e) if the demolition will require the disconnection of a pipe to a stormwater drain—show any point of disconnection of the pipe to the stormwater system; and

- (f) if the demolition will, when finished, alter the surface stormwater drainage on the parcel of land where the work is to be done—show the proposed surface stormwater drainage on the parcel at the completion of the work; and
 - (g) for the parcel of land where the demolition is to be done—include a site plan on a scale of not less than 1:200 showing—
 - (i) the block and section number of the land (or for land under a land sublease, the sublease plan number); and
 - (ii) the boundaries and dimensions of the land.
- (3) In this section:

stormwater system means a system of pipes, gutters, drains, floodways and channels designed to collect or carry stormwater in or through an urban area, other than for a single parcel of land.

utility service—see the *Utilities Act 2000*, dictionary.

water main means a conduit or pipeline—

- (a) owned, controlled or maintained by a utility service; and
- (b) designed to carry drinking water supplied by the service.

36B Applications for demolition orders to be referred—Act, s 63A (4)

- (1) This section applies if the custodian of the land on which a building is located intends to apply to the construction occupations registrar for a demolition order for demolition of the building.
- (2) Before making the application, the custodian must refer the application to an entity mentioned in an item in schedule 2A if the demolition involves something prescribed in schedule 2A in relation to the entity.
- (3) A referral under subsection (2) must be accompanied by a copy of the documents mentioned in the [Act](#), section 63A (4) (a) to (e).

36C Applications for demolition orders—requirement to give advice—Act, s 63B

- (1) This section applies if an application for a demolition order is referred to an entity for advice.

Note An application may be required to be referred to an entity under s 36B.

- (2) The entity must give advice in relation to the application not later than 15 working days after the day the application is given to the entity.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (3) The advice—
- (a) must be in writing; and
 - (b) must relate to the entity's area of authority; and
 - (c) must state whether the entity supports or opposes the application; and
 - (d) if the entity supports the application—may include conditions to which the support is subject; and
 - (e) if the entity opposes the application—must state the reasons for opposing the application.
- (4) If the advice includes a condition, the condition must not require the demolition to be carried out in a way that is inconsistent with, or more burdensome than, the Act.
- (5) For this section, advice relates to an entity's area of authority if the entity has authority under a legislative provision for the area.

17 New schedule 2A

insert

Schedule 2A Referral of demolition order applications to particular entities

(see s 36B)

column 1 item	column 2 building work involved	column 3 entity to which building approval application is referred
1	demolition of building to which water or sewerage services supplied or water meter connected	the utility that provides the water or sewerage service under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i>
2	demolition of building to which electricity services supplied or electricity meter connected	the utility that provides the electricity service under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i>
3	demolition of building to which gas services supplied or gas meter connected	the utility that provides the gas service under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i>

Part 5 Civil Law (Sale of Residential Property) Act 2003

18 Application of pt 2 Section 6 (3)

substitute

- (3) Also, this part does not apply to a contract, or proposed contract, for the sale of residential property—
- (a) if—
- (i) the property is an affected unit; and
 - (ii) the Territory is buying the property under the buyback scheme; or
- (b) if—
- (i) the property is an eligible impacted property; and
 - (ii) the Territory is buying the property under the eligible impacted property buyback program.

19 Section 6 (4), new definitions

insert

eligible impacted property—see section 9A (1).

eligible impacted property buyback program—see section 9A (1).

20 **New section 9A**

insert

9A **Meaning of *eligible impacted property* and *eligible impacted property buyback program*—pt 2**

(1) In this part:

eligible impacted property means residential premises determined by the Minister to be eligible to be purchased by the Territory under the eligible impacted property buyback program.

eligible impacted property buyback program means the program involving the acquisition, by the Territory, of eligible impacted properties.

(2) In making a determination under the definition of *eligible impacted property* in relation to residential premises, the Minister may consider the following:

- (a) whether the residential premises are structurally dependent on the affected residential premises;
- (b) whether—
 - (i) the owner of the affected residential premises has agreed to surrender the lease on which the premises are located, or sell the premises, to the Territory under the buyback scheme; and
 - (ii) if subparagraph (i) applies—the lease has been surrendered or the contract for the sale of the affected residential premises has been completed;

- (c) whether loose-fill asbestos insulation has been found in the residential premises or whether migration pathways are identified between the residential premises and the affected residential premises;

Examples—migration pathways

- a shared cavity wall that loose-fill asbestos insulation could have fallen into
- a roof space that is continuous with the affected residential premises
- a sub-floor that is continuous with the affected residential premises

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).

- (d) whether the safe, efficient or practical demolition of the affected residential premises will be adversely affected by a shared structure or the location of the residential premises;
- (e) anything else the Minister considers relevant.

- (3) In this section:

affected residential premises means residential premises that contain, or have contained, loose-fill asbestos insulation.

buyback scheme—see section 6 (4).

loose-fill asbestos insulation—see the [Dangerous Substances Act 2004](#), section 47M.

residential premises means premises, or a part of premises, that are a class 1 or class 2 building.

21 Dictionary, new definitions

insert

eligible impacted property, for part 2 (Sale of residential property)—see section 9A (1).

eligible impacted property buyback program, for part 2 (Sale of residential property)—see section 9A (1).

Part 6 Dangerous Substances (General) Regulation 2004

22 Definitions—pt 3.5 Section 338, new definition of *licensed asbestos removalist*

insert

licensed asbestos removalist—see the [Work Health and Safety Regulation 2011](#), dictionary.

23 Asbestos contamination report—owner and occupier responsibilities Section 342 (1) (b)

omit

licensed asbestos removal worker

substitute

licensed asbestos removalist

24 Section 344 heading

substitute

344 Asbestos removalist must give copy of work report to regulator and owner

25 Section 344

omit

licensed asbestos removal worker

substitute

licensed asbestos removalist

26 Dictionary, new definition of *licensed asbestos removalist*

insert

licensed asbestos removalist, for part 3.5 (Asbestos management—residential premises)—see the [Work Health and Safety Regulation 2011](#), dictionary.

Part 7 Electricity Feed-in (Renewable Energy Premium) Act 2008

27 Premium rate—20 years Section 11 (3) (a), (b) and (c)

after

affected residential premises

insert

or eligible impacted property

28 Section 11 (4), new definition of *eligible impacted property*

insert

eligible impacted property—see the [Civil Law \(Sale of Residential Property\) Act 2003](#), section 9A (1).

Part 8 Land Rent Act 2008

29 Application of Act Section 5 (2), new note

insert

Note *Single dwelling house lease*—see the dictionary.

30 Application to pay land rent Section 7 (1), new note

insert

Note *Single dwelling house lease*—see the dictionary.

31 Section 7 (3), new note

insert

Note 3 *Land rent lease*—see the dictionary.

32 Section 7 (4)

omit

33 Section 7 (5), definition of *single dwelling house lease*

omit

34 New section 7A

insert

7A Grant of land rent lease—former owner

- (1) This section applies if the planning and land authority offers a lease of a parcel of land by direct sale to an eligible former owner of the parcel of land.

Note 1 The planning and land authority may grant a lease under the *Planning and Development Act 2007*, s 238.

Note 2 **Single dwelling house lease**—see the dictionary.

- (2) The eligible former owner may apply to the planning and land authority to pay land rent for the lease.

Note If a form is approved under the *Planning and Development Act 2007*, s 425 for this provision, the form must be used.

- (3) If the lease is granted, and an application is made under subsection (2) in accordance with the regulations, the lease must—
- (a) be granted to the eligible former owner subject to the condition that land rent is payable for the lease; and
 - (b) be a single dwelling house lease; and
 - (c) indicate that the lease is a land rent lease.

Note 1 The planning and land authority need not grant a lease to an eligible former owner, even if applications for the lease have been invited (see *Planning and Development Act 2007*, s 244).

Note 2 If applications for a lease have been invited subject to conditions, the planning and land authority may, without granting a lease, invite fresh applications for the lease subject to the same or other conditions (see *Planning and Development Act 2007*, s 244).

Note 3 **Land rent lease**—see the dictionary.

(4) In this section:

affected residential premises means premises listed on the affected residential premises register.

affected residential premises register—see the *Dangerous Substances Act 2004*, section 47N (1).

buyback scheme—see the *Dangerous Substances Act 2004*, section 47N (6).

eligible former owner, of a parcel of land, means a former owner of the parcel of land who has been granted a discount under section 12 for a land rent lease not earlier than 6 months before the day the planning and land authority offers a single dwelling house lease of the parcel of land by direct sale.

eligible impacted property—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

eligible impacted property buyback program—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

former owner, of a parcel of land, means—

(a) a person—

(i) who—

(A) owns a parcel of land on which affected residential premises are located; and

(B) has executed a deed to surrender the parcel of land to the Territory under the buyback scheme; or

(ii) who—

(A) owned a parcel of land on which affected residential premises are located; and

(B) has surrendered the parcel of land to the Territory under the buyback scheme; or

- (iii) who—
 - (A) owns a parcel of land on which an eligible impacted property is located; and
 - (B) has executed a contract to sell the parcel of land to the Territory under the eligible impacted property buyback program; or
- (iv) who—
 - (A) owned a parcel of land on which an eligible impacted property is located; and
 - (B) has sold the parcel of land to the Territory under the eligible impacted property buyback program; or
- (b) if the person mentioned in paragraph (a) dies—a person who would have obtained an interest in the parcel of land if the parcel of land had not been surrendered or sold; or
- (c) if the person mentioned in paragraph (a) is a party to a divorce or the ending of a civil partnership or civil union—the person who would have obtained an interest in the parcel of land under a court order if the parcel of land had not been surrendered or sold.

35 Discount—eligibility
New section 11 (1A)

insert

- (1A) For subsection (1) (a), the former owner of a parcel of land is not taken to own other real property if the former owner—
 - (a) owns the parcel of land; but
 - (b) does not own other real property.

36 Section 11 (2), new definition of *former owner*

insert

former owner—see section 7A (4).

**37 Transfer of post-1 October 2013 lease
Section 16C (2) (a)**

substitute

(a) if the lessee is not an eligible former owner of the lease—an eligible transferee; or

**38 Regulation-making power
Section 35 (2)**

after

section 7 (2) (Application to pay land rent)

insert

or section 7A (2) (Grant of land rent lease—former owner)

39 Dictionary, definition of *land rent lease*

substitute

land rent lease means a lease mentioned in section 7 (3) or section 7A (3).

40 Dictionary, new definitions

insert

single dwelling house—see the [territory plan](#).

single dwelling house lease means a residential lease that authorises use of the land under the lease for a single dwelling house.

Part 9 Land Rent Regulation 2008

41 New section 4

insert

4 Application by eligible former owner to pay land rent— Act, s 7A (2)

The following requirements in relation to an application to pay land rent for a lease are prescribed:

- (a) before the lease is granted, the eligible former owner must have attended a land rent information session conducted by the Canberra Institute of Technology;
- (b) the eligible former owner must give evidence of the former owner's attendance at the session to the authority.

Part 10 Planning and Development Act 2007

42 Development proposals in impact track because of need for EIS Schedule 4, part 4.3, item 6

substitute

6	<p>proposal that is likely to have a significant adverse impact on the heritage significance of a place or object registered under the Heritage Act 2004, unless—</p> <ul style="list-style-type: none">(a) the heritage council produces an environmental significance opinion that the proposal is not likely to have a significant adverse impact; or(b) the proposal is the demolition of a building that is affected residential premises, and the heritage council has approved a statement of heritage effect in relation to the proposal <p><i>Note 1</i> Affected residential premises—see the dictionary.</p> <p><i>Note 2</i> Statement of heritage effect—see the Heritage Act 2004, s 61G.</p>
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43 Dictionary, new definitions

insert

affected residential premises means—

- (a) residential premises that contain, or have contained, loose-fill asbestos insulation; or
- (b) premises listed on the affected residential premises register.

affected residential premises register—see the [Dangerous Substances Act 2004](#), section 47N (1).

Part 11 Planning and Development Regulation 2008

44 Certain direct sales not requiring approval—Act, s 240 (1) (d) Section 130 (2), definition of *eligible former owner*

substitute

eligible former owner means—

- (a) a person who—
 - (i) was the lessee of an affected lease or eligible impacted lease; and
 - (ii) for a lessee of an affected lease—
 - (A) surrendered the affected lease to the Territory under the LAIE buyback program; and
 - (B) in the deed to surrender the affected lease elected to receive a first right of refusal to purchase a new lease of the land; and
 - (iii) for a lessee of an eligible impacted lease—
 - (A) sold the lease to the Territory under the eligible impacted property buyback program; and
 - (B) in the contract for the sale of the eligible impacted lease elected to receive a first right of refusal to purchase a new lease of the land; or
- (b) if the person mentioned in paragraph (a) dies—a person who would have obtained an interest in the affected lease or eligible impacted lease if the lease had not been surrendered or sold; or

- (c) if the person mentioned in paragraph (a) is a party to a divorce or the ending of a civil partnership or civil union—a person who would have obtained an interest in the affected lease or eligible impacted lease under a court order if the lease had not been surrendered or sold.

Note **LAIE buyback program**—see s 213.

45 Section 130 (2), new definitions

insert

eligible impacted lease means a lease of land on which there are improvements including an eligible impacted property.

eligible impacted property buyback program—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

46 Application—div 5.8.1 Section 209 (2) and (3)

substitute

- (2) However, this division does not apply to a lease surrendered under—
- (a) the LAIE buyback program; or
 - (b) the eligible impacted property buyback program.
- (3) In this section:

eligible impacted property buyback program—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

Note **LAIE buyback program**—see s 213.

47 Sections 213 and 214

substitute

213 Meaning of *loose-fill asbestos insulation eradication buyback program*

In this regulation:

loose-fill asbestos insulation eradication buyback program (LAIE buyback program) means the program—

- (a) involving the surrender of affected leases; and
- (b) for which funding was appropriated under the [Appropriation \(Loose-fill Asbestos Insulation Eradication\) Act 2014-2015](#).

214 Meaning of *LAIE buyback program valuation procedure*

In this regulation:

LAIE buyback program valuation procedure means the procedure set out in schedule 2A.

48 Sections 215 to 219A

omit

buyback

substitute

LAIE buyback

49 Section 219B heading

substitute

219B Limitation on payment amount—LAIE buyback program—Act, s 300 (3)

50 Dictionary, definition of *buyback program*

omit

51 Dictionary, new definitions

insert

LAIE buyback program valuation procedure—see section 214.

loose-fill asbestos insulation eradication buyback program (LAIE buyback program)—see section 213.

Part 12 Residential Tenancies Act 1997

52 Termination New section 36 (m)

after the note, insert

- (m) if a party to the agreement terminates the agreement under section 64AB because the premises are an eligible impacted property.

Note **Eligible impacted property**—see the [Civil Law \(Sale of Residential Property\) Act 2003](#), s 9A (1).

53 New section 55B

insert

55B Eligible impacted property

- (1) On application by a lessor, the ACAT may make a termination and possession order if satisfied that—
- (a) the premises are an eligible impacted property; and
- Note* **Eligible impacted property**—see the [Civil Law \(Sale of Residential Property\) Act 2003](#), s 9A (1).
- (b) the lessor has given the tenant written notice under section 64AB (Termination—eligible impacted property) terminating the tenancy agreement; and
- (c) the tenant has not vacated the premises as required by the notice.
- (2) The ACAT may suspend the operation of the termination and possession order for a stated period of up to 3 weeks if satisfied that—
- (a) the tenant would suffer significant hardship if the order were not suspended for the stated period; and

- (b) the hardship would be greater than the hardship the lessor would suffer if the order were suspended for the stated period.

54 New section 64AB

in division 4.7, insert

64AB Termination—eligible impacted property

- (1) This section applies if premises that are the subject of a residential tenancy agreement are an eligible impacted property.

Note **Eligible impacted property**—see the *Civil Law (Sale of Residential Property) Act 2003*, s 9A (1).

- (2) A party to the residential tenancy agreement may, by written notice to the other party, terminate the agreement.
- (3) The party terminating the agreement must give the other party at least 28 working days notice of the termination.
- (4) The tenancy ends on the date stated in the notice.

55 Dictionary, new definition of *eligible impacted property*

insert

eligible impacted property—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

Part 13 Taxation Administration Regulation 2004

56 Permitted disclosure of information—Act, s 97 (d) (x) Section 4 (3)

omit everything after

ownership of

substitute

property—

- (a) affected by the presence of loose-fill asbestos insulation; or
- (b) that is an eligible impacted property.

57 New section 4 (4)

insert

- (4) In this section:

eligible impacted property—see the [Civil Law \(Sale of Residential Property\) Act 2003](#), section 9A (1).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 September 2015.

2 Notification

Notified under the [Legislation Act](#) on 5 November 2015.

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 Building (Loose-fill Asbestos Eradication) Legislation Amendment Bill 2015, which was passed by the Legislative Assembly on 27 October 2015.

Clerk of the Legislative Assembly

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