

2015

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**PLANNING AND DEVELOPMENT (LOOSE-FILL ASBESTOS ERADICATION)
AMENDMENT REGULATION 2015 (No 1)**

SL2015-31

Explanatory Statement

Presented by
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**PLANNING AND DEVELOPMENT (LOOSE-FILL ASBESTOS ERADICATION) AMENDMENT
REGULATION 2015 (No 1)
EXPLANATORY STATEMENT**

Introduction

This explanatory statement relates to the *Planning and Development (Loose-fill Asbestos Eradication) Amendment Regulation 2015 (No 1)* (the amending regulation) as presented to the ACT Legislative Assembly. It has been prepared in order to assist the reader of the amending regulation. It does not form part of the amending regulation and has not been endorsed by the Assembly.

This statement should be read in conjunction with the amending regulation. It is not, and is not meant to be, a comprehensive description of the amending regulation. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

The amending regulation is made under the *Planning and Development Act 2007* (P&D Act) and inserts a new section into the current *Planning and Development Regulation 2008* (P&D Regulation). The amending regulation facilitates the resale of former loose fill asbestos affected blocks back to their former owners following remediation, where the owner has elected to exercise their a first right of refusal under the Loose Fill Asbestos Insulation Eradication Scheme (the Scheme), by allowing for a grant of a new Crown lease to be issued to a former owner by direct sale.

This is necessary because section 240s(1)(d) of the P&D Act only allows for the construction of a single dwelling house when a new Crown lease is granted through a direct sale. A number of the leases surrendered to the Territory through the Scheme allowed for multiple residential dwellings to be constructed. The regulation therefore allows for a direct sale of a new Crown lease to an eligible former owner under 'Certain direct sales not requiring approval' (section 130), which overcomes the restriction placed by section 240(1)(d).

Human rights analysis

The amendment regulation has been reviewed in relation to the *Human Rights Act 2004* and no issues identified.

Revenue/Cost Implications

This amending regulation will facilitate the implementation of the direct resale component of the Scheme, funding for which is appropriated by the *Appropriation (Loose-Fill Asbestos Insulation Eradication) Act 2014 - 2015*.

Regulatory Impact Statement

A regulatory impact statement has not been prepared for the proposed amendments because the regulation does not operate to a disadvantage of anyone, and does not adversely affect a person's rights or impose a liability on a person.

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Detailed explanation of formal clauses

Clause 1 - Name of regulation

This regulation is the *Planning and Development (Loose-fill Asbestos Eradication) Amendment Regulation 2015 (No 1)*.

Clause 2 - Commencement

This regulation commences on the day after its notification day.

Clause 3 - Legislation amended

This regulation amends the *Planning and Development Regulation 2008*.

Clause 4 – Section 130 (1)(h)

The amending regulation inserts a new section to the Regulation under section 130(1)(h) to allow for a direct sale of a new Crown lease of land to an eligible former owner of the land.

Clause 5 – Section 130 (2), new definition *eligible former owner*

Section 130(2) inserts a definition for ‘eligible former owner’ to mean a person who was the lessee of an affected lease and has surrendered the affected lease to the Territory under the Buyback Program and has chosen to receive a first right of refusal to repurchase a new lease of the land.

Section 130(2)(b) also provides that an eligible former owner can be a person who would have obtained an interest in the affected lease if the lease had not been surrendered.

Section 130(2)(c) defines an eligible former homeowner as a person who is a party to a divorce or the ending of a civil partnership or civil union, and would have obtained an interest in the affected lease under a court order if the lease had not been surrendered.

Clause 6 – Section 212 (1), definition of *affected residential premises*

This is a new definition for affected residential premises, and defines the term to mean residential premises that contain, or have contained, loose-fill asbestos insulation; or premises listed on the affected residential premises register.

Clause 7 - Section 212 (2) new definition of *affected residential premises register*

This clause inserts the definition of affected residential premises register as under section 47N of the *Dangerous Substances Act 2004*.