

# Government Agencies (Land Acquisition Reporting) Amendment Regulation 2023 (No 1)

## Subordinate law SL2023–1

made under the

**Government Agencies (Land Acquisition Reporting) Act 2018**

## EXPLANATORY STATEMENT

---

This explanatory statement relates to the *Government Agencies (Land Acquisition Reporting) Amendment Regulation 2023 (No 1)* (the **amendment regulation**) as made by the Executive. It has been prepared to assist the reader of the amendment regulation and to help inform any debate on it. It does not form part of the amendment regulation and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the amendment regulation. It is not, and is not meant to be, a comprehensive description of the amendment 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 amendment regulation amends the *Government Agencies (Land Acquisition Reporting) Regulation 2019* (the **regulation**).

The amendment regulation prescribes that if an acquisition of land occurs because of the surrender of a development lease, it does not require reporting as a government land acquisition. This is because a development lease is designed to be temporary. A development lease is issued to a purchaser as part of a contract of sale for land to enable the purchaser to undertake specified works or improvements. Once the works are completed to the Territory's satisfaction, the land subject to the development lease is surrendered to the Territory in accordance with the relevant agreement, with a Crown lease being issued to the purchaser of the land thereafter.

The amendment regulation further exempts the reporting of the acquisition of land as a result of a forfeiture of tainted property under the *Confiscation of Criminal Assets Act 2003*. This amendment ensures alignment with the intent of the *Government Agencies (Land Acquisition Reporting) Act 2018* (the **Act**), as a forfeiture of property results from a court order, with most property forfeitures occurring due to restraint and control orders, and a later conviction. These details are publicly available on the

ACT Courts' website and were never intended to be captured by the reporting scheme created by the Act.

The amendment regulation also clarifies section 4 of the regulation, relating to loose-fill asbestos-affected properties, in accordance with contemporary drafting standards.

These amendments align with the purpose of the Act to provide transparency in government acquisition of land, by precluding the reporting of operational and deliberative matters, particularly temporary acquisition of land when compensation is not a consideration, or if the surrender of land is part of an alternative statutory process, the details of which are already publicly available.

## **CONSULTATION ON THE PROPOSED APPROACH**

The amendment regulation was prepared in consultation with the Public Trustee and Guardian, and the Justice and Community Safety Directorate.

## **REGULATORY IMPACT STATEMENT**

A regulatory impact statement is not required as the amendment regulation does not impose appreciable costs on the community, or part of the community, under section 34 (1) of the *Legislation Act 2001*.

## **CONSISTENCY WITH HUMAN RIGHTS**

There are no human rights impacts related to the amendment regulation.

## CLAUSE NOTES

### Clause 1      **Name of regulation**

This clause names the regulation as the *Government Agencies (Land Acquisition Reporting) Amendment Regulation 2023 (No 1)*.

### Clause 2      **Commencement**

This clause provides for the commencement of the regulation on the day after its notification day.

### Clause 3      **Legislation amended**

This clause provides that the regulation amends the *Government Agencies (Land Acquisition Reporting) Regulation 2019*.

### Clause 4      **Section 4 (1)**

This clause redrafts current section 4 (1) to clarify the wording that acquisitions under the buyback scheme or the eligible impacted property buyback program are an exception to reporting.

The term *buyback scheme* is defined in current section 4 (2) to mean ‘the scheme involving the acquisition by the Territory of residential premises that contain or have contained loose-fill asbestos insulation’. The term *eligible impacted property buyback program* is defined in section 9A (1) of the *Civil Law (Sale of Residential Property) Act 2003*.

### Clause 5      **Section 4 (2), definition of *eligible impacted property***

Clause 5 omits the term *eligible impacted property* as a consequence of the amendments made by clause 4.

### Clause 6      **New sections 5 and 6**

Clause 6 inserts two new exceptions from reporting under the Act into the regulation.

New section 5 (1) provides that if a development lease is surrendered on or before 1 January 2019, and if no compensation was paid by the Territory, the acquisition is exempt from reporting. New section 5 (2) defines the term *development lease*.

New section 6 provides that the forfeiture of tainted property to the Territory under part 5 of the *Confiscation of Criminal Assets Act 2003*, on or after 1 January 2019, is exempt from reporting.