



Australian Capital Territory

Loose-fill Asbestos Legislation Amendment Act 2020

A2020-20

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Australian Capital Territory

Loose-fill Asbestos Legislation Amendment Act 2020

A2020-20

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

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

Part 1 Preliminary

1 Name of Act

This Act is the *Loose-fill Asbestos Legislation Amendment Act 2020*.

2 Commencement

This Act commences on 1 July 2020.

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

3 Legislation amended

This Act amends the following legislation:

- *Building (General) Regulation 2008*
- *Dangerous Substances Act 2004*
- *Dangerous Substances (General) Regulation 2004*
- *Planning and Development Act 2007*
- *Planning and Development Regulation 2008*
- *Residential Tenancies Act 1997*.

Note This Act also amends other legislation (see sch 1).

Part 2 Building (General) Regulation 2008

4 Exempt buildings and building work generally—Act, s 152 (2) New section 6 (1A)

insert

- (1A) Also, a building mentioned in schedule 1, part 1.2, items 2 to 15 is not exempt if the building is erected at affected residential premises.

5 New section 6 (5A)

insert

- (5A) Also, a building or building work mentioned in schedule 1, part 1.3, items 14 to 16, 23 and 24 is not exempt if the building is erected or the work is undertaken at affected residential premises.

6 Section 15A

substitute

15A Asbestos contamination report—Act, s 26 (3)

- (1) This section applies to an application for building approval in relation to affected residential premises.
- (2) The application must include a copy of the current asbestos contamination report for the premises.
- (3) In this section:

current asbestos contamination report—see the [Dangerous Substances Act 2004](#), section 47J (2).

**7 Building approval applications—asbestos warning notices—Act, s 152 (3) (b)
Section 18A (9), definition of *affected residential premises register***

substitute

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

8 New section 29A

insert

29A Building approvals not to be issued—Act, s 30 (2)

- (1) A building approval must not be issued for building work involving an affected building at affected residential premises unless the building work is any of the following:
 - (a) building work related to the demolition of the affected building including asbestos removal related to the demolition;
 - (b) building work essential for health, safety or reasonable living conditions at affected residential premises.
- (2) The Minister may make guidelines about building work mentioned in subsection (1) (b).
- (3) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

9 Dictionary, new definitions

insert

affected building—see the [Dangerous Substances Act 2004](#), section 47I.

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

Part 3 Dangerous Substances Act 2004

10 Failure to comply with safety duty—exposing people to substantial risk of death or serious harm Section 43 (1), examples 1 and 2

omit

11 Chapter 3A

substitute

Chapter 3A Asbestos

Note Chapter 6 provides compliance measures for contraventions of the Act.

Part 3A.1 Preliminary

471 Definitions—ch 3A

In this chapter:

affected building means a building that contains or has contained loose-fill asbestos insulation.

affected residential premises—

- (a) means residential premises on which there is or was an affected building; but
- (b) does not include premises if the premises have been—
 - (i) removed from the affected residential premises register; or
 - (ii) acquired by the Territory under the buyback scheme or the [Lands Acquisition Act 1994](#).

affected residential premises register—see section 47P.

approved occupant—see section 47T (1).

asbestos assessment report—see section 47K.

asbestos contamination means loose-fill asbestos contaminated dust or debris.

asbestos contamination report—see section 47J.

building work—see the [Building Act 2004](#), section 6.

buyback scheme means the scheme—

- (a) involving the acquisition of residential premises that contain or have contained loose-fill asbestos insulation; and
- (b) for which funding was appropriated under the [Appropriation \(Loose-fill Asbestos Insulation Eradication\) Act 2014-2015](#).

class, of building—see the [Building Act 2004](#), dictionary.

current asbestos contamination report—see section 47J.

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

loose-fill asbestos insulation means loose-fill amosite or crocidolite asbestos used as ceiling insulation.

owner, of affected residential premises—

- (a) means the person who is registered under the [Land Titles Act 1925](#) as the proprietor of the lease for the residential premises; and
- (b) includes any person registered as a joint tenant or tenant in common in relation to the lease.

regulator means the director-general of the administrative unit responsible for the [Work Health and Safety Act 2011](#).

residential premises—

- (a) means a parcel of land on which there is or was a class 1 or class 2 building; and

(b) includes any buildings on the land.

47J Meaning of *asbestos contamination report* and *current asbestos contamination report*

(1) For this chapter, an *asbestos contamination report* is a report prepared by a licensed asbestos assessor about asbestos contamination at affected residential premises that—

(a) expires after—

- (i) a defined period stated by the assessor in the report; or
- (ii) any building work at, or structural damage to, an affected building at the premises that may have disturbed asbestos contamination in the roof space, wall cavity or sub-floor area of the building; and

Examples—structural damage

- 1 fire damage
- 2 dislodged fixture or fitting
- 3 hole in ceiling, wall or floor

(b) complies with any requirements prescribed by regulation.

(2) For this chapter, a *current asbestos contamination report* is an asbestos contamination report for affected residential premises that has not expired.

(3) In this section:

defined period means a period of not less than 6 months and not more than 2 years.

47K Meaning of *asbestos assessment report*

For this chapter, an *asbestos assessment report* is a report prepared by a licensed asbestos assessor about residential premises that—

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

- (b) assesses the risk resulting from the identified asbestos; and
- (c) advises how the asbestos should be managed; and
- (d) includes anything required by regulation to be included in the report.

Part 3A.2 Asbestos—assessments and register etc

47L Duty to publish educational material

The Minister must publish educational material to increase public awareness about risks associated with asbestos.

47M Asbestos advice

- (1) The Minister must prepare an advice about the likely location of asbestos in buildings built, or the building of which started, before 1985.
- (2) An advice is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

47N Requirement to give asbestos assessment report

- (1) This section applies if—
 - (a) there is an asbestos assessment report for residential premises; and
 - (b) a person (the *engager*) engages someone (the *worker*) to undertake work involving asbestos at the premises.
- (2) The engager must—
 - (a) tell the worker about the asbestos at the premises; and
 - (b) give the worker a copy of the asbestos assessment report for the premises.

- (3) However, the engager need not give the worker a copy of the asbestos assessment report for the premises—
 - (a) if the engager cannot obtain a copy of the report after taking reasonable steps; or
 - (b) if the work is a response to an emergency situation.

- (4) In this section:

asbestos containing material means any material or thing that, as part of its design, contains asbestos.

involves—work *involves* asbestos if the work involves supplying, transporting, storing, removing, using, installing, handling, treating, disposing of or disturbing asbestos or asbestos containing material.

470 Requirements—affected residential premises

- (1) The owner of affected residential premises must have a current asbestos contamination report for the premises.
- (2) A person (the *engager*) who engages someone (the *worker*) to undertake work at affected residential premises must—
 - (a) tell the worker about the asbestos at the premises; and
 - (b) give the worker a copy of the current asbestos contamination report for the premises.
- (3) A person who undertakes, or engages a person to undertake, work that may disturb asbestos contamination in the defined areas of an affected building at affected residential premises, must tell the regulator about the work at least 5 business days before the day the work begins.
- (4) A regulation may prescribe requirements for the following in relation to the management of asbestos contamination at affected residential premises:
 - (a) the regulator;
 - (b) the owner of affected residential premises;

- (c) a property manager of, or real estate agent for, affected residential premises;
- (d) the occupier of affected residential premises;
- (e) a licensed asbestos assessor;
- (f) a licensed asbestos removalist;
- (g) a worker or other person at affected residential premises.

Examples—requirements

- 1 undertaking work required under an asbestos contamination report
 - 2 complying with any other requirements under an asbestos contamination report including installing warning signs at affected residential premises
 - 3 displaying a copy of an asbestos contamination report at affected residential premises
 - 4 giving a copy of an asbestos contamination report and any related documents to the people mentioned in pars (a) to (g)
- (5) In this section:

defined areas, in relation to an affected building, means the roof space, wall cavity or sub-floor area of the building.

47P Affected residential premises register

- (1) The Minister must keep a register of affected residential premises (the *affected residential premises register*).
- (2) The Minister must include the following details in relation to affected residential premises in the register:
 - (a) the address where the premises are located;
 - (b) the block and section;
 - (c) the date the premises were included in the register;
 - (d) whether the premises have been acquired by the Territory under the buyback scheme or the *Lands Acquisition Act 1994*;

- (e) whether the premises require a current asbestos contamination report;
- (f) whether—
 - (i) the premises have a current asbestos contamination report; and
 - (ii) any work mentioned in the report to manage the asbestos contamination has been completed;
- (g) whether the premises are subject to an occupancy prohibition, and, if so—
 - (i) whether an approved occupant is occupying the premises; and
 - (ii) if an approved occupant is occupying the premises—the name of the approved occupant.

Note An approved occupant may occupy affected residential premises that are subject to an occupancy prohibition (see s 47U).

- (3) The Minister must remove all details about affected residential premises from the register if—
 - (a) each affected building at the premises has been demolished; and
 - (b) the Minister is satisfied that the premises have been remediated.
- (4) The register may be kept in any form, including electronically, that the Minister decides.
- (5) The Minister may make the register, or part of the register, publicly available (other than matters mentioned in subsection (2) (g)).

Example—publicly available

published on an ACT Government website

- (6) In this section:

affected residential premises means residential premises on which there is or was an affected building.

47Q Notice of affected residential premises to registrar-general

The Minister must, as soon as possible after including or removing details of residential premises in or from the affected residential premises register, tell the registrar-general about the inclusion or removal.

Note An administrative interest may be placed on the title for affected residential premises that includes noting that the premises will be subject to an occupancy prohibition following the transfer or transmission of the premises (see *Land Titles Act 1925*, s 69A (ba)).

Part 3A.3 Occupancy prohibition**47R Definitions—pt 3A.3**

In this part:

occupy—a person *occupies* affected residential premises if the person has the premises as their principal place of residence.

transfer—see the *Land Titles Act 1925*, dictionary.

transmission—see the *Land Titles Act 1925*, dictionary.

47S Meaning of occupancy prohibition

The occupation of affected residential premises is prohibited (an *occupancy prohibition*) if—

- (a) there has been a transfer or transmission of the premises on or after 1 July 2020; and
- (b) the premises were included in the affected residential premises register before the transfer or transmission of the premises.

Note An approved occupant may occupy affected residential premises that are subject to an occupancy prohibition (see s 47U).

47T Meaning of *approved occupant*

- (1) In this chapter:

approved occupant, of affected residential premises, means—

- (a) an individual (a *resident*) who has occupied the premises continuously on and after the day it was added to the affected residential premises register; or
 - (b) an individual (a *support person*) who, upon application, is approved by the Minister to occupy the premises to provide support to a resident.
- (2) Before making a decision under subsection (1), definition of *approved occupant*, paragraph (b), the Minister must consider whether—
- (a) the support is reasonably necessary for the ongoing physical or emotional care of the resident; and
 - (b) it is reasonably necessary for the support person to occupy the premises to provide the support.
- (3) The Minister must give a written copy of the approval or refusal of the support person's occupancy of the premises to the applicant within 28 days after receiving the application.
- (4) If the Minister has not given a written copy of the approval or refusal to the applicant within 28 days after receiving the application, the Minister is taken to have refused the application.

47U Occupancy prohibition—affected residential premises

- (1) The owner of affected residential premises that are subject to an occupancy prohibition must ensure that the premises are not occupied by a person other than an approved occupant of the premises.

Note A residential tenancy agreement for affected residential premises may be terminated under the [Residential Tenancies Act 1997](#), s 64AA.

- (2) The owner of affected residential premises commits an offence if—
- (a) the premises are subject to an occupancy prohibition; and
 - (b) there was an administrative interest under the *Land Titles Act 1925*, section 69A (ba) (i) or (iii) on the title for the premises when the premises were transferred or transmitted to the owner; and
 - (c) the owner fails to comply with subsection (1) in relation to the premises.

Maximum penalty: 50 penalty units.

47V Owner must notify regulator of approved occupants

The owner of affected residential premises that are subject to an occupancy prohibition following a transfer or transmission of the premises must tell the regulator in writing—

- (a) that an approved occupant occupies the premises within 10 business days after—
 - (i) for an approved occupant who occupied the premises on the day of the transfer or transmission—the day of the transfer or transmission; or
 - (ii) for an approved occupant who occupied the premises after the day of the transfer or transmission—the day the occupation began; or
- (b) that an approved occupant has stopped occupying the premises within 10 business days after the day the occupation ends.

12 **Definitions—ch 9**
Section 186, definition of *decision-maker*

substitute

decision-maker means any of the following:

- (a) the Minister;
- (b) the director-general;
- (c) an inspector;
- (d) a licensed asbestos assessor.

13 **New chapter 15**

insert

Chapter 15 Transitional—Loose-fill Asbestos Legislation Amendment Act 2020

232 **Definitions—ch 15**

In this chapter:

affected residential premises register—see section 47P.

asbestos assessment report—see section 47K.

asbestos contamination report—see section 47J.

commencement day means the day the *Loose-fill Asbestos Legislation Amendment Act 2020*, section 3 commences.

contamination management plan—see the *Dangerous Substances (General) Regulation 2004*, section 341 (1) (c).

existing asbestos advice means an asbestos advice prepared under section 47J as in force immediately before the commencement day.

existing assessment report means an asbestos assessment report under section 47K as in force immediately before the commencement day.

existing contamination report means an asbestos contamination report that—

- (a) was prepared under the *Dangerous Substances (General) Regulation 2004*, section 341 as in force immediately before the commencement day; and
- (b) was less than 2 years old immediately before the commencement day.

existing register means the affected residential premises register under section 47N as in force immediately before the commencement day.

233 Existing asbestos advice

An existing asbestos advice is taken to be an advice under section 47M.

234 Existing contamination reports

- (1) An existing contamination report is taken to be an asbestos contamination report that expires 2 years after the day the report was prepared.

Note The owner of affected residential premises may remove certain personal information from the copy of the current asbestos contamination report before giving it to the occupier of the premises (see *Dangerous Substances (General) Regulation 2004*, s 342 (2)).

- (2) A contamination management plan in an existing contamination report is taken to be a contamination management plan included in an asbestos contamination report for a period of 2 years after the day the report was prepared.

235 Existing assessment reports

An existing assessment report is taken to be an asbestos assessment report.

236 Existing register

The existing register—

- (a) is taken to be the affected residential premises register; and
- (b) may be updated to include any new information required under section 47P.

237 Expiry—ch 15

This chapter expires 2 years after the commencement day.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

14 Dictionary, new definitions

insert

affected building, for chapter 3A (Asbestos)—see section 47I.

affected residential premises, for chapter 3A (Asbestos)—see section 47I.

15 Dictionary, definition of *affected residential premises register*

substitute

affected residential premises register, for chapter 3A (Asbestos)—see section 47P.

16 Dictionary, new definitions

insert

approved occupant, for chapter 3A (Asbestos)—see section 47T.

asbestos assessment report, for chapter 3A (Asbestos)—see section 47K.

asbestos contamination, for chapter 3A (Asbestos)—see section 47I.

asbestos contamination report, for chapter 3A (Asbestos)—see section 47J.

building work, for chapter 3A (Asbestos)—see the [Building Act 2004](#), section 6.

buyback scheme, for chapter 3A (Asbestos)—see section 47I.

class, of building, for chapter 3A (Asbestos)—see section 47I.

current asbestos contamination report, for chapter 3A (Asbestos)—see section 47J (2).

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

licensed asbestos removalist, for chapter 3A (Asbestos)—see the [Work Health and Safety Regulation 2011](#), dictionary.

17 Dictionary, definition of *loose-fill asbestos insulation*

substitute

loose-fill asbestos insulation, for chapter 3A (Asbestos)—see section 47I.

18 Dictionary, new definitions

insert

occupancy prohibition—see section 47S.

occupy, for part 3A.3 (Occupancy prohibition)—see section 47R.

owner, of affected residential premises, for chapter 3A (Asbestos)—see section 47I.

regulator, for chapter 3A (Asbestos)—see section 47I.

residential premises, for chapter 3A (Asbestos)—see section 47I.

transfer, for part 3A.3 (Occupancy prohibition)—see the [Land Titles Act 1925](#), dictionary.

transmission, for part 3A.3 (Occupancy prohibition)—see the [Land Titles Act 1925](#), dictionary.

Part 4 Dangerous Substances (General) Regulation 2004

19 Removal of asbestos or ACM from premises Section 312 (1), penalty

substitute

Maximum penalty: 30 penalty units.

20 Asbestos removal control plan Section 313 (1), penalty

substitute

Maximum penalty: 30 penalty units.

21 Section 337

substitute

337 Application—pt 3.5

This part applies to affected residential premises.

22 Definitions—pt 3.5 Section 338, new definition of *approved display case*

insert

approved display case means a display case provided by the Territory for displaying a current asbestos contamination report at affected residential premises.

23 Section 338, definition of *approved warning sign*

substitute

approved warning sign means a warning sign that complies with the standard approved under section 339 (1) (a).

24 Section 338, definitions

omit the definitions of
asbestos contamination
asbestos contamination report
licensed asbestos assessor
licensed asbestos removalist
regulator
residential premises

25 Section 339

substitute

339 Asbestos warning signs and display case—approval

- (1) The Minister may approve the following in relation to a warning sign about loose-fill asbestos insulation:
 - (a) the standard with which the warning sign must comply;
 - (b) the way, and the places (in addition to any places mentioned in a contamination management plan) where, the warning sign must be displayed.
- (2) The Minister may approve the way, and the place where, the approved display case must be displayed at affected residential premises.
- (3) An approval under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

**26 Offence—asbestos warning signs
Section 340 (1) (b)**

substitute

- (b) fails to ensure that an approved warning sign is displayed in the way and the places stated in the approval under section 339 (1) (b).

27 Sections 341 and 342

substitute

**341 Requirements for asbestos contamination reports—Act,
s 47J (1) (b)**

- (1) An *asbestos contamination report* for affected residential premises must—
- (a) identify the location, type and condition of—
 - (i) asbestos contamination in the living area of each affected building at the premises; and
 - (ii) any opening or crack through which asbestos contamination could enter the living area; and
 - (b) assess the risk—
 - (i) resulting from the asbestos contamination in the living area; and
 - (ii) that asbestos contamination may enter the living area; and
 - (c) include a plan that advises how the asbestos contamination should be managed (the *contamination management plan*); and
 - (d) where practicable, exclude photographs that show any personal effects of the owner or occupier of the premises.

- (2) The contamination management plan must identify—
 - (a) work required to seal, lock or clean the living area; and
 - (b) any location at the premises where additional approved warning signs must be displayed.

342 Requirements for owners of affected residential premises—Act, s 47O (4) (b)

- (1) The owner of affected residential premises must ensure that—
 - (a) a licensed asbestos removalist does the following in relation to the current asbestos contamination report for the premises, within 6 months after the inspection date for the report:
 - (i) any work required under the contamination management plan in the report to seal, lock or clean the living area of an affected building at the premises;
 - (ii) install all additional approved warning signs required under the contamination management plan in the report; and
 - (b) any other requirement in the contamination management plan in the report is complied with; and
 - (c) if an occupier of the premises is not the owner—a copy of the report is given to the occupier of the premises.
- (2) The following information may be removed from a copy of the current asbestos contamination report before it is given to the occupier of the premises under subsection (1) (c) or before it is displayed under subsection (3) (b):
 - (a) information that identifies an individual;
 - (b) any contact details of an individual.

- (3) The owner of affected residential premises must ensure that—
- (a) an approved display case that has been provided by the Territory is situated at the premises in a way and place stated in the approval under section 339 (2); and
 - (b) a readable copy of the current asbestos contamination report for the premises is displayed in the case.

- (4) In this section:

inspection date, for an asbestos contamination report, means the date the premises were last inspected by the licensed asbestos assessor for the purposes of preparing the report.

342A Requirements for people at affected residential premises—Act, s 47O (4)

A person at affected residential premises must not tamper, or attempt to tamper, with—

- (a) work undertaken to seal, lock or clean the living area of an affected building at the premises; or
- (b) an approved warning sign required under the contamination management plan for the premises; or
- (c) an approved display case situated at the premises or a current asbestos contamination report displayed in the case.

28 Schedule 5, part 5.1 heading

substitute

Part 5.1 Reviewable decisions under Act

29 Schedule 5, part 5.1, new item 1A*before item 1, insert*

1A	47T (1) (b)	refuse to allow individual to occupy affected residential premises for which there is an occupancy prohibition	owner of affected residential premises or proposed occupant
----	-------------	--	---

30 Schedule 5, part 5.2 heading*substitute*

Part 5.2 Internally reviewable decisions under Act

31 Schedule 5, part 5.2, new item 1A*before item 1, insert*

1A	47J (1) (a) (i)	state expiry date as less than 2 years for asbestos contamination report for affected residential premises	owner of affected residential premises
----	-----------------	--	--

32 Dictionary, note 3*insert*

- affected building
- affected residential premises
- asbestos contamination
- asbestos contamination report
- building work
- buyback scheme
- licensed asbestos assessor

- licensed asbestos removalist
- occupancy prohibition
- owner
- regulator

33 Dictionary, new definition of *approved display case*

insert

approved display case, for part 3.5 (Asbestos management—residential premises)—see section 338.

34 Dictionary

omit the definitions of

asbestos contamination

asbestos contamination report

licensed asbestos assessor

licensed asbestos removalist

regulator

residential premises

Part 5 Planning and Development Act 2007

35 Deciding development applications Section 162 (3)

substitute

- (3) Also, the planning and land authority or Minister must refuse the following development applications:
- (a) a development application to which division 9.4.2 (Varying concessional leases to remove concessional status) applies if the Minister decides under section 261 that considering the application is not in the public interest;
 - (b) a development application for a development involving affected residential premises other than a remediation development.

36 Section 162 (7), new definitions

insert

affected building—see the *Dangerous Substances Act 2004*, section 47I.

affected residential premises—see the *Dangerous Substances Act 2004*, section 47I.

remediation development, in relation to affected residential premises, means—

- (a) the demolition of each affected building on the premises including asbestos removal related to the demolition; and
- (b) the remediation of the premises.

37 Dictionary, definition of *affected residential premises register*

omit

section 47N (1)

substitute

section 47P (1)

Part 6 Planning and Development Regulation 2008

38 **Certain direct sales not requiring approval—Act,
s 240 (1) (d)
Section 130 (2), definition of *affected residential premises
register***

omit

39 **Section 130 (2), new definition of *eligible impacted
property***

insert

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

40 **Section 212**

substitute

212 **Meaning of *affected lease***

In this regulation:

affected lease means a lease of land on which there are improvements including affected residential premises.

212A **Meaning of *affected residential premises*—div 5.8.2**

(1) In this division:

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.

(2) In this section:

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

**41 Definitions—sch 1
Schedule 1, section 1.1, new definition of *affected residential premises***

insert

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

**42 Exempt developments—general criteria
Schedule 1, new section 1.10 (ea)**

insert

(ea) section 1.17A (Criterion 7A—affected residential premises);

43 Schedule 1, new section 1.17A

insert

1.17A Criterion 7A—affected residential premises

- (1) A development must not involve affected residential premises unless the development is for the following:
 - (a) the demolition of an affected building on the premises, including asbestos removal related to the demolition;
 - (b) work essential for health, safety or reasonable living conditions at affected residential premises.
- (2) The Minister may make guidelines about work mentioned in subsection (1) (b).
- (3) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

(4) In this section:

affected building—see the *Dangerous Substances Act 2004*, section 47I.

44 Schedule 1, sections 1.100B (1) (a) and 1.101 (1) (a) (ii)

after

conservation)

insert

and section 1.17A (Criterion 7A—affected residential premises)

45 Schedule 1, section 1.109

substitute

1.109 Designated areas—developments not involving lease variations

A development in a designated area if the development—

- (a) does not involve the variation of a lease; and
- (b) complies with section 1.17A (Criterion 7A—affected residential premises).

Note *Designated area*—see the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), s 4.

**46 Rebuilding damaged buildings and structures
Schedule 1, new section 1.110 (1) (aa)**

insert

- (aa) the development complies with section 1.17A (Criterion 7A—affected residential premises); and

47 Schedule 1, section 1.112

substitute

1.112 Subdivisions—Unit Titles Act 2001

The subdivision of land under a unit title application under the *Unit Titles Act 2001* if the subdivision does not involve affected residential premises.

48 Schedule 1, new section 1.114

insert

1.114 Affected residential premises—work essential for health, safety or reasonable living conditions

A designated development involving affected residential premises if the development—

- (a) is for work mentioned in section 1.17A (1) (b); and
- (b) complies with the general exemption criteria that are applicable to the development.

**49 Definitions—sch 2A
Schedule 2A, section 2A.1, new definition of *affected residential premises***

insert

affected residential premises—see section 212A.

50 Dictionary, note 3

insert

- affected residential premises register

51 Dictionary, definition of *affected residential premises*

substitute

affected residential premises—

- (a) for division 5.8.2 (Payment of amount on surrender of leases—loose-fill asbestos insulation eradication buyback program)—see section 212A; and
- (b) for schedule 1 (Exemptions from requirement for development approval)—see the *Dangerous Substances Act 2004*, section 47I; and
- (c) for schedule 2A (Buyback program valuation procedure)—see section 212A.

52 Dictionary, definition of *loose-fill asbestos insulation*

omit

section 47M

substitute

section 47I

Part 7 Residential Tenancies Act 1997

53 New section 64AC

in division 4.7, insert

64AC No new residential tenancy agreements etc for affected residential premises

- (1) This section applies in relation to affected residential premises that are included in the affected residential premises register.
- (2) Despite any other provision in this Act, a residential tenancy agreement for the premises entered into on or after 1 July 2020 is void.
- (3) Despite any other provision in this Act, the assignment or subletting of the premises entered into on or after 1 July 2020 is void.
- (4) Despite any other provision in this Act, an occupancy agreement for the premises entered into on or after 1 July 2020 is void.
- (5) Despite any other provision in this Act, a person may apply to the ACAT for an order for the following:
 - (a) that the lessor of the premises pay the person compensation for money paid by the person under a residential tenancy agreement, or an assigned residential tenancy agreement, that is void under this section;
 - (b) that the tenant of the premises pay the person compensation for the money paid by the person under an agreement to sublet the premises that is void under this section;
 - (c) that the grantor of an occupancy agreement for the premises pay the person compensation for the money paid by the person under the agreement that is void under this section.

54 Dictionary, definitions of *affected residential premises* and *affected residential premises register*

substitute

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

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

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Building Act 2004

[1.1] Section 28A (5), definition of *asbestos advice*

substitute

asbestos advice means an advice prepared under the *Dangerous Substances Act 2004*, section 47M.

[1.2] Section 63A (9), definition of *affected residential premises register*

omit

section 47N (1)

substitute

section 47P (1)

[1.3] Section 63A (9), definition of *buyback scheme*

omit

section 47N (6)

substitute

section 47I

Part 1.2 **Civil Law (Sale of Residential Property) Act 2003**

[1.4] Section 6 (4), definition of *loose-fill asbestos insulation*

omit

section 47M

substitute

section 47I

[1.5] Section 9 (4), definition of *asbestos advice*

substitute

asbestos advice means an advice prepared under the [Dangerous Substances Act 2004](#), section 47M.

[1.6] Section 9A (3), definition of *loose-fill asbestos insulation*

omit

section 47M

substitute

section 47I

Part 1.3 **Civil Law (Sale of Residential Property) Regulation 2004**

[1.7] Section 10A (1) (b)

substitute

(b) the owner is required to have a current asbestos contamination report for the premises under the [Dangerous Substances Act 2004](#), section 47O.

[1.8] Section 10A (2)

before

asbestos

insert

current

[1.9] Section 10A (3), definition of *affected residential premises*

substitute

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

[1.10] Section 10A (3), definition of *asbestos contamination report*

omit

[1.11] Section 10A (3), new definition of *current asbestos contamination report*

insert

current asbestos contamination report—see the [Dangerous Substances Act 2004](#), section 47J (2).

Part 1.4 **Construction Occupations (Licensing) Regulation 2004**

[1.12] Section 16 (3), definition of *affected residential premises register*

omit

section 47N (1)

substitute

section 47P (1)

[1.13] Section 16 (3), definition of *buyback scheme*

omit

section 47N (6)

substitute

section 47I

Part 1.5 **Electricity Feed-in (Renewable Energy Premium) Act 2008**

[1.14] Section 11 (4), definition of *affected residential premises register*

omit

section 47N

substitute

section 47P (1)

[1.15] Section 11 (4), definition of *loose-fill asbestos insulation*

omit

section 47M

substitute

section 47I

Part 1.6 Information Privacy Regulation 2014

[1.16] Dictionary, definition of *loose-fill asbestos insulation*

omit

section 47M

substitute

section 47I

Part 1.7 Land Rent Act 2008

[1.17] Section 7A (4), definition of *affected residential premises register*

omit

section 47N (1)

substitute

section 47P (1)

[1.18] Section 7A (4), definition of *buyback scheme*

omit

section 47N (6)

substitute

section 47I

Part 1.8 Land Titles Act 1925

[1.19] Section 69A (b)

omit

but

substitute

and

[1.20] New section 69A (ba)

insert

- (ba) if the land is affected residential premises within the meaning of the *Dangerous Substances Act 2004*, section 47I—includes the following:
- (i) whether the premises have been included in the affected residential premises register under the *Dangerous Substances Act 2004*, section 47P, and, if so, that—
 - (A) any transfer or transmission of the premises will place an occupancy prohibition on the premises; and
 - (B) the premises may be acquired by the Territory under the *Lands Acquisition Act 1994*;

- (ii) whether the premises have been removed from the affected residential premises register under the *Dangerous Substances Act 2004*, section 47P;
- (iii) whether there is an occupancy prohibition for the premises under the *Dangerous Substances Act 2004*, section 47S; but

[1.21] Section 69A, example 3

omit

[1.22] New section 69C (2A) and (2B)

insert

- (2A) The registrar-general may include in the record any relevant information about an administrative interest mentioned in section 69A (ba) that the registrar-general considers necessary to describe the interest.
- (2B) If the registrar-general includes in the record information about an administrative interest mentioned in section 69A (ba), the registrar-general must notify the Minister responsible for the *Dangerous Substances Act 2004* about the inclusion.

Part 1.9 Land Titles Regulation 2015

[1.23] Section 2

omit

section 47N

substitute

section 47P

Part 1.10

Work Health and Safety Regulation 2011

[1.24] Section 142 (5), definition of *loose-fill asbestos insulation*

omit

section 47M

substitute

section 47I

[1.25] Section 292 (2), definition of *loose-fill asbestos insulation*

omit

section 47M

substitute

section 47I

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 20 February 2020.

2 Notification

Notified under the [Legislation Act](#) on 27 May 2020.

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 Loose-fill Asbestos Legislation Amendment Bill 2020, which was passed by the Legislative Assembly on 21 May 2020.

Clerk of the Legislative Assembly

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