

2021

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

LOOSE-FILL ASBESTOS LEGISLATION AMENDMENT BILL 2021

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004*, s 37)**

**Presented by
Rebecca Vassarotti MLA
Minister for Sustainable Building and Construction**

LOOSE-FILL ASBESTOS LEGISLATION AMENDMENT BILL 2021

The Bill is not a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004* (the **HRA**).

This explanatory statement relates to the Loose-fill Asbestos Legislation Amendment Bill 2021 (the **Bill**) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The statement must be read in conjunction with the Bill. It is not, and is meant to be, a comprehensive description of the Bill. 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 OF THE BILL

The Bill amends the definition of **buyback scheme** within the *Civil Law (Sales of Residential Property) Act 2003*, *Dangerous Substances Act 2004*, *Government Agencies (Land Acquisition Reporting) Regulation 2019* and the definition of **loose-fill asbestos insulation eradication buyback program (LAIE buyback program)** in the *Planning and Development Regulation 2008*, so that these definitions no longer refer to the *Appropriation (Loose-fill Asbestos Insulation Eradication) Act 2014-2015* (the **Appropriation Act**).

The Appropriation Act provides funding for the Loose-fill Asbestos Eradication Scheme Buyback Program (the **Scheme**) until 17 August 2021. From 18 August 2021, all financial and budget implications for any newly-identified properties that participate in the Scheme will be funded through existing budgetary mechanisms.

Most premises identified as affected by loose-fill asbestos have already been surrendered to the Territory or privately demolished. However, the goal of eradicating loose-fill asbestos from the ACT residential community can only be achieved when every affected premises has been demolished.

Since the Scheme was announced in 2014, five additional Canberra properties have been identified as affected by loose fill asbestos insulation. It is anticipated there are more affected properties in Canberra's older suburbs that are yet to be identified as containing loose-fill asbestos insulation.

By providing that the Scheme's funding arrangements are no longer associated with the Appropriation Act, the Bill supports the ongoing effect of the Scheme for affected properties identified after 17 August 2021.

Not continuing the Scheme to newly-identified properties after 17 August 2021 would be inconsistent with the Government's commitment to eradicate loose-fill asbestos from the ACT residential community.

CONSULTATION ON THE PROPOSED APPROACH

Government directorates and agencies have been consulted in the development of the Bill.

CONSISTENCY WITH HUMAN RIGHTS

Section 12 (a) of the HRA recognises that everyone has the right not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily. Section 9 (1) of the HRA recognises everyone has the right to life and no-one may be arbitrarily deprived of life. To the extent that the Bill provides for the Scheme to continue after 17 August 2021, this will assist to ensure that the right to privacy and home is not subject to arbitrary interference, as affected homeowners will be able to continue to access the Scheme. The continuation of the Scheme will also support measures taken to reduce risks of harm posed by loose-fill asbestos in Canberra, thus promoting the right to life.

Loose-Fill Asbestos Legislation Amendment Bill 2021

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Loose-fill Asbestos Legislation Amendment Bill 2021**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA
Attorney-General

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause names the Act as the *Loose-fill Asbestos Legislation Amendment Act 2021*.

Clause 2 Commencement

This clause provides for the commencement of the Act. The Act commences on 18 August 2021.

Clause 3 Legislation amended

This clause provides that the Act amends a number of pieces of legislation.

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

Clause 4 Application of pt 2 Section 6 (4), definition of *buyback scheme*

This clause substitutes the definition of *buyback scheme* by removing the reference to funding connected to an Appropriation Act.

Part 3 Dangerous Substances Act 2004

Clause 5 Definitions—ch 3A Section 47I, definition of *buyback scheme*

This clause substitutes the definition of *buyback scheme* by removing the reference to funding connected to an Appropriation Act.

Part 4 Government Agencies (Land Acquisition Reporting) Regulation 2019

Clause 6 Asbestos-affected properties—Act, s 7 (2) (b) Section 4 (2), definition of *buyback scheme*

This clause substitutes the definition of *buyback scheme* by removing the reference to funding connected to an Appropriation Act.

Part 5 Planning and Development Regulation 2008

Clause 7 Section 213

This clause substitutes the definition of ***loose-fill asbestos insulation eradication buyback program (LAIE buyback program)*** by removing the reference to funding connected to an Appropriation Act.