



New South Wales

# Home Building and Duties Amendment (Loose-fill Asbestos Insulation Affected Premises) Bill 2015

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Home Building Act 1989* to provide a register of residential premises containing loose-fill asbestos insulation (**LFAI**) and require warning signs to be displayed at premises that are included on the register,
- (b) to amend the *Duties Act 1997* to provide a duty concession on a purchase of replacement residential property by owners of residential premises that are acquired by an authority of the State because they contain LFAI.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1 Amendment of Home Building Act 1989 No 147

**Schedule 1** makes the amendment referred to in paragraph (a) of the Overview, inserting proposed Division 1A into Part 8 of the *Home Building Act 1989*. The proposed Division contains the following provisions:

- (a) Proposed section 119A defines terms used in the proposed Division.

- (b) Proposed section 119B requires the Commissioner for Fair Trading to maintain a publicly available register of residential premises containing LFAI (the *Register*). Residential premises are to be listed on the Register if the Commissioner is satisfied that the presence of LFAI has been verified in accordance with the regulations made under the *Home Building Act 1989*. Particulars of listed premises are to be removed from the Register after the premises are demolished and the land on which the premises were erected has been remediated.
- (c) Proposed section 119C makes it an offence for the owner of listed residential premises to fail to ensure that a warning sign about the LFAI is displayed at the premises, and for any person (other than a person authorised under the *Home Building Act 1989* or an investigator appointed under the *Fair Trading Act 1987*) to remove the warning sign. The Commissioner can, by order published in the Gazette, extend the proposed section to other premises if satisfied that there are reasonable grounds to suspect that the premises contain LFAI.

## **Schedule 2      Amendment of Duties Act 1997 No 123**

**Schedule 2 [1]** makes the amendment referred to in paragraph (b) of the Overview, inserting proposed Division 5 into Part 8 of Chapter 2 of the *Duties Act 1997*. The proposed Division contains the following provisions:

- (a) Proposed section 104D defines terms used in the proposed Division.
- (b) Proposed section 104E provides for a duty concession to a purchaser or transferee of residential property if the Chief Commissioner is satisfied that the purchaser or transferee is the owner of LFAI-affected residential property acquired by an authority of the State. Section 308 of the *Duties Act 1997* exempts the Crown in right of the State from liability to pay duty under that Act. Proposed section 104E provides that any ad valorem duty chargeable to the purchaser or transferee in connection with the replacement residential property is to be reduced by the amount of ad valorem duty that (but for section 308 of that Act) would have been chargeable to the authority of the State in connection with the acquisition of the LFAI-affected property by the authority.
- (c) Proposed section 104F deals with requirements relating to an application for a duty concession under the proposed Division.

**Schedule 2 [2]** inserts a savings and transitional provision consequent on the amendment made by **Schedule 2 [1]**.