



New South Wales

Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

TONY KELLY, MLC
Minister for Planning

Explanatory note

The object of this Regulation is to improve safety where complying development involves bonded asbestos material (of more than 10 square metres) or friable asbestos material by:

- (a) requiring details of the estimated area of bonded asbestos material or friable asbestos material involved in proposed development to be included in the application for a complying development certificate, and
- (b) adding a condition to each complying development certificate requiring that development involving asbestos be undertaken by a business that is licensed under the *Occupational Health and Safety Regulation 2001*, and
- (c) requiring a contract that evidences compliance with the condition (and specifies the landfill site lawfully able to accept asbestos to which any removed asbestos will be delivered) to be provided to the principal certifying authority before any development pursuant to the complying development certificate commences.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 80 A (11), 84A (3) and 157 (the general regulation-making power).

2009 No 584

Environmental Planning and Assessment Amendment (Asbestos)
Clause 1 Regulation 2009

**Environmental Planning and Assessment Amendment
(Asbestos) Regulation 2009**

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009*.

2 Commencement

This Regulation commences on 18 January 2010.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[1] Clause 136E

Insert after clause 136D:

136E Development involving bonded asbestos material and friable asbestos material

- (1) A complying development certificate for development that involves building work or demolition work must be issued subject to the following conditions:
 - (a) work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 318 of the *Occupational Health and Safety Regulation 2001*,
 - (b) the person having the benefit of the complying development certificate must provide the principal certifying authority with a copy of a signed contract with such a person before any development pursuant to the complying development certificate commences,
 - (c) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered.
- (2) This clause applies only to a complying development certificate issued after the commencement of this clause.
- (3) In this clause, *bonded asbestos material*, *bonded asbestos removal work*, *friable asbestos material* and *friable asbestos removal work* have the same meanings as in clause 317 of the *Occupational Health and Safety Regulation 2001*.

Note 1. Under clause 317 removal work refers to work in which the bonded asbestos material or friable asbestos material is removed, repaired or disturbed.

Note 2. The effect of subclause (1) (a) is that the development will be a workplace to which the *Occupational Health and Safety Regulation 2001* applies while removal work involving bonded asbestos material or friable asbestos material is being undertaken.

Note 3. Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Department of Environment, Climate Change and Water.

2009 No 584

Environmental Planning and Assessment Amendment (Asbestos)
Regulation 2009

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

Note 4. Demolition undertaken in relation to complying development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* must be carried out in accordance with Australian Standard AS 2601—2001, *Demolition of structures*.

[2] Schedule 1 Forms

Insert after clause 3 (g):

- (h) the estimated area (if any), in square metres, of bonded asbestos material or friable asbestos material that will be disturbed, repaired or removed in carrying out the development.