

Disclosure of asbestos in residential property – information for landlords and renters

Fact Sheet

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ABOUT ASBESTOS

Both landlords and real estate agents may have obligations to tell a renter if a home contains asbestos.

There are obligations on landlords of residential properties across Australia to ensure the safety of the home they are renting out and that it is kept in good repair. In some states and territories landlords must also disclose the presence of hazards or risks, including asbestos, to renters.

In all states and territories, real estate agents or property managers are legally obligated to not provide false or misleading information. If a renter asks about the presence of asbestos in a property, a real estate agent or property manager must disclose that information if known to them.

The table below sets out what the laws require in your state or territory.

State and territory disclosure requirements for residential rental properties



If an asbestos assessment report is available for the property, the **landlord or their agent** must provide it to the renter with the lease agreement. If no asbestos assessment report is available, a copy of the ACT Government's asbestos advice must be provided to renters. It is not compulsory for the landlord to obtain an asbestos assessment report.

Agents must also act honestly, fairly and professionally with all parties in a transaction, and not mislead or deceive any parties in negotiations or a transaction.



A **landlord** must disclose, as part of the residential tenancy agreement and standard entry condition report, if the premises is listed on the loose fill asbestos insulation register, whether this occurs before or after the lease commences. Failure to disclose provides grounds for a tenant to end a lease early without compensation to the landlord.

A **landlord** must also notify renters of any other material fact relating to the premises, including significant health or safety risks unless they are obvious when inspecting the property.

An **agent** must:

- not induce a person to enter into any contract by making false, misleading or deceptive statements or representations
- disclose a material fact, including if the property is subject to significant health or safety risks, or is listed on the loose fill asbestos insulation register
- act honestly, fairly and not mislead any party.

Learn more at

asbestossafety.gov.au



Australian Government

Asbestos Safety and Eradication Agency

State and territory disclosure requirements for residential rental properties



A **landlord** must ensure the residential property is habitable and meets all health and safety requirements that apply to the property.

Under the Real Estate Practitioners Code of Conduct, an **agent** should:

- disclose pertinent facts of which they are aware, and
- not exaggerate, misrepresent or conceal relevant facts regarding a transaction of which they are aware.



A **landlord** must ensure premises are clean, fit for the tenant to live in and in good repair. Landlords must also comply with laws dealing with the health and safety of persons using or entering the premises.

An **agent** must not represent to someone else anything that is false or misleading relating to the letting of a property. They must take reasonable steps to find out or verify the facts material to the lease to avoid error, omission, exaggeration or misrepresentation.



A **landlord** or **agent** must not make a statement that is false or misleading in dealings such as entering tenancy agreements under the *Land Agents Act 1994*.



A **landlord** must give the tenant a copy of any information relating to rights and obligations under residential tenancy agreements as the Director of Consumer Affairs and Fair Trading may direct.

An **agent** must act fairly, honestly and in a reasonable manner towards all customers, including by:

- exercising due care, diligence and skills when interacting with a customer
- ascertaining all pertinent facts in relation to a transaction so as to avoid error, exaggeration or misrepresentation; and
- not knowingly make false or misleading statements or representations.



A **landlord** has a duty of disclosure to tenants if the premises is known by the landlord to have friable or non-friable asbestos based on an inspection by a suitably qualified person.

An **agent** must act fairly, honestly, in good faith and to the best of their knowledge and ability in performing the functions of an estate agent or agent's representative.



An **agent** must comply with the Real Estate and Business Agents and Sales Representatives Code of Conduct 2016, including by:

- acting in good faith in the best interests of the client
- exercising due care, diligence and skills when acting for a client
- being honest in all dealings with all persons involved in a transaction.

The Code places a legal obligation on agents to make reasonable efforts to ascertain or verify the facts which are material to a transaction.

Learn more at

asbestossafety.gov.au



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Renters should be aware of where asbestos might be.

Where there is no obligation to disclose asbestos in a rental property, renters should be aware that if the home was built before 1990 it may contain asbestos and take care to not damage or disturb materials that might contain asbestos.

See our **Asbestos in residential property disclosure tool** for guidance on the common places where asbestos might be in a home.

Any damage to a part of the home that might contain asbestos should be reported to the landlord or property manager immediately so they can take action to manage the risks of exposure to asbestos.



Landlords must ensure residential properties are safe.



Landlords need to monitor the condition of asbestos materials and advise renters on how to stay safe. Landlords must also ensure that when work is carried out at their property, it is done safely and that workers or others, including renters, are not exposed to dangerous asbestos fibres.

Further information on how to manage the risks of asbestos is available in the guide on **Asbestos Safety for householders and home renovators** and on the **ASEA webpage, Asbestos in the home**.

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Learn more at
asbestosafety.gov.au



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