



New changes to the Asbestos Management Code

On the 1st January 2012 new changes to the Asbestos Management Code came into effect and will apply throughout Australia.

What property does this apply to?

The new national law will apply to buildings used as a workplace (ie most commercial buildings) **built before 31st December 2003**. Previously the code only applied to commercial buildings built before 1 January 1990.

What has to be done?

The Asbestos Management Code requires a commercial building owner to:

- Ensure all asbestos containing material (“ACM”) on the property is identified by a competent person;
- Develop an Asbestos Register of ACM (“ACM Register”), even if no asbestos is found; and
- If ACM is found, develop an Asbestos Management Plan (“ACM Plan”). The asbestos management plan provides vital information to persons occupying the building and to contractors working within the building about the condition, location and management of the ACM.

Who's responsibility is it?

The responsibility to be compliant will not only fall on the property owner, but also the person managing the property and any person carrying out demolition or refurbishment work.

Failure to comply will attract fines of up to \$60,000 or 6 years imprisonment as well as risks of liability for damages under proposed contracts of sale or leases if these matters are not fully and adequately addressed.

What should you do?

If you have not complied, you should immediately commission an appropriately qualified person to conduct an asbestos inspection and produce an ACM Report, ACM Register and (if ACM is found) an ACM Plan complying with the Asbestos Management Code.

Additionally, should you intend to offer the whole or any part of the building for sale or lease you should:

- Provide a copy of the ACM Register and (if applicable) the ACM Plan to the proposed purchaser/lessee before a contract or lease is entered into;
- If works are to be performed under the ACM Plan, make it clear as to who is obliged to perform those works; and
- Provide copies of the ACM Register and (if applicable) the ACM Plan to any contractors working within the building.

If you are a building owner and already have an ACM Plan in place you should still review it periodically to ensure

that you are complying with it.

For further information contact [Paul McHugh](#), Partner.



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