
STATUTORY INSTRUMENTS

1983 No. 1649

HEALTH AND SAFETY

The Asbestos (Licensing) Regulations 1983

Made - - - - - 8th November 1983
Laid before Parliament 8th November 1983
Coming into Operation 1st August 1984

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The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (2), (4)(a), (5)(b) and (9), 43(2) and (5) and 82(3)(a) of, and paragraphs 1(1)(b) and (c), 4, 8(1), 14, 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) ("the 1974 Act") and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Asbestos (Licensing) Regulations 1983 and shall come into operation on 1st August 1984.

Interpretation

- 2.—(1) In these Regulations, unless the context otherwise requires—
"asbestos" means any of the following minerals, that is to say, crocidolite,

(a) 1974 c. 37.

amosite, chrysotile, fibrous actinolite, fibrous anthophyllite, fibrous tremolite, and any mixture containing any of those minerals;

“asbestos cement” means a material which is predominantly a mixture of cement and asbestos and which when in a dry state has a density greater than 1 tonne per cubic metre;

“asbestos coating” means a surface coating which contains asbestos;

“asbestos insulation” means any material containing asbestos and used for thermal, acoustic or other insulation purposes (including fire protection) except—

(a) asbestos cement or asbestos insulating board, or

(b) any article of bitumen, plastic, resin or rubber which contains asbestos, and the thermal and acoustic properties of which are incidental to its main purpose;

“asbestos insulating board” means any sheet, tile or building board consisting of a mixture of asbestos and other material which mixture when in a dry state has a density greater than 500 kilograms per cubic metre;

“work with asbestos insulation or asbestos coating” means work in which asbestos insulation or asbestos coating is removed, repaired or disturbed and includes such work in any supervisory or ancillary capacity.

(2) Any reference in these Regulations to a paragraph not otherwise identified is a reference to a paragraph in the Regulation where the reference appears.

Work with asbestos insulation or asbestos coating not to be carried on without a licence

3.—(1) Subject to paragraph (2), an employer or self-employed person shall not undertake any work with asbestos insulation or asbestos coating, unless he holds a licence granted under Regulation 4 of these Regulations relating to such work and complies with the terms and conditions of that licence.

(2) Paragraph (1) shall not apply where—

(a) (i) any person who carries out work with asbestos insulation or asbestos coating does not spend more than a total of one hour on such work in any period of seven consecutive days, and

(ii) the total time spent on such work by all the persons working on that work does not exceed two hours; or

(b) the work is undertaken at premises of which the employer whose employees are carrying out the work or the self-employed person who is carrying out the work himself, as the case may be, is the occupier, and—

(i) that employer or self-employed person does not hold a valid licence to do such work granted under these Regulations, and

(ii) he has given notice of the work in accordance with Regulation 5 of these Regulations; or

(c) the work consists solely of air monitoring or collecting of samples for the purposes of identification.

Licences for work with asbestos insulation or asbestos coating

4.—(1) The Health and Safety Executive may grant a licence for work with asbestos insulation or asbestos coating if it considers it appropriate to do so and—

- (a) the person who wishes the licence to be granted to him has made application for it on a form approved for the time being for the purposes of this Regulation by the Executive; and
- (b) the application was made at least 28 days before the date from which the licence is to run, or such shorter period as the Executive may allow.

(2) A licence under this Regulation—

- (a) shall come into operation on the date specified in the licence and, subject to paragraph (3), may be with or without a limit of time; and
- (b) may be granted subject to such conditions as the Executive may consider appropriate.

(3) The Executive may vary the terms of a licence if it considers it appropriate to do so and in particular may—

- (a) add further conditions and vary or omit existing ones; and
- (b) impose a limit of time where none had been imposed and where a limit had been imposed may vary or remove it.

(4) The Executive may revoke a licence if the licensee—

- (a) has contravened any condition or restriction attached to a licence issued under these Regulations; or
- (b) has been convicted of an offence of—
 - (i) contravening Regulation 3 or 6 of these Regulations, or
 - (ii) failing to discharge a duty relating to work with asbestos insulation or asbestos coating to which he is subject by virtue of section 2, 3, 4 or 5 of the Health and Safety at Work etc. Act 1974, or of any health and safety regulation (whenever made) or of the Asbestos Regulations 1969(a).

(5) A licensee shall, when required by the Executive, return a licence to the Executive for any amendment or following revocation.

(6) A fee of £100 shall be payable to the Executive on each application being made for a licence under this Regulation, but where the application is for a licence to follow a previous licence without any gap in time the fee shall be £50.

Notification to the enforcing authority of work with asbestos insulation or asbestos coating at a person's own premises

5.—(1) The notice to which Regulation 3(2)(b) refers is a notice in writing given to the enforcing authority at least 28 days before the work is commenced (or such shorter period as that authority may allow) and specifying the type of

(a) S.I. 1969/690.

work to be carried out and the address of the premises at which it is to be carried out.

(2) Where in the case of asbestos containing crocidolite an employer or self-employed person has given notice under Regulation 6 of the Asbestos Regulations 1969 to an inspector appointed by the Health and Safety Executive, that notice shall be deemed to comply with paragraph (1).

(3) Every employer or self-employed person who is undertaking work with asbestos insulation or asbestos coating after having given notice in accordance with this Regulation shall—

- (a) provide adequate information to persons who may be in the vicinity or who may be affected by such work, and, in the case of an employer, instruction and training for his employees where appropriate; and
- (b) shall ensure that he, his employees, other employees, and any other persons who may be in the vicinity of, or may be affected by, his or his employees' work activities, are exposed only to the lowest level of asbestos dust which is reasonably practicable.

Certificate of medical examination

6.—(1) An employer shall ensure that each of his employees who works with asbestos insulation or asbestos coating is under medical surveillance by an employment medical adviser or appointed doctor and that surveillance shall consist of—

- (a) a medical examination carried out for the purposes of these Regulations before that employee does any work with asbestos insulation or asbestos coating; and
- (b) further medical examination at intervals of not more than 2 years while he does such work,

except that this paragraph shall not apply to a case to which Regulation 3(2) (a) or (c) applies.

(2) Where an employee has been examined for the purposes of these Regulations, the employer shall keep a certificate, or a copy of a certificate, by an employment medical adviser or appointed doctor that the employee has been examined for these purposes; and shall keep it for at least 4 years from the date of examination.

(3) A self-employed person shall not work with asbestos insulation or asbestos coating unless he has a certificate issued by an employment medical adviser or appointed doctor that he has been examined for the purposes of these Regulations within the previous 2 years, except that this paragraph shall not apply to a case where Regulation 3(2)(a) or (c) applies, and the self-employed person shall keep the certificate for at least 4 years from the date of the examination.

(4) Where—

- (a) an employment medical adviser has carried out a medical examination of any person before the making of these Regulations; or
- (b) an appointed doctor has carried out a medical examination of any person before his appointment as such,

and that employment medical adviser or appointed doctor certifies that in his opinion that examination should be treated as medical examination for the purposes of this Regulation, then it shall be so treated and the certificate shall be a certificate for the purposes of paragraphs (2) and (3).

- (5) (a) Fees shall be payable in accordance with the following provisions of this paragraph to the Health and Safety Executive in respect of a medical examination for the purposes of this Regulation by an employment medical adviser.
- (b) The fees shall be payable in the case of the examination of an employee, by his employer; and, in the case of the examination of a self-employed person, by that self-employed person.
- (c) The fees shall be a basic fee of £30 for each examination, together with an additional fee of £19.50 in respect of all X-rays taken in connection with any one examination, and of £11.50 in respect of all laboratory tests carried out in respect of any one examination.

(6) In this Regulation—

“appointed doctor” means a registered medical practitioner appointed in writing by the Health and Safety Executive for the purposes of this Regulation;

“employment medical adviser” means an employment medical adviser appointed under section 56(1) of the Health and Safety at Work etc. Act 1974;

“medical examination” includes any laboratory tests and X-rays that the employment medical adviser or appointed doctor may require.

Exemption certificates

7.—(1) Subject to paragraph (2), the Health and Safety Executive may, by a certificate in writing, exempt any person, class of person, product containing asbestos or class of such products, from all or any of the prohibitions or requirements imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(2) The Executive shall not grant any exemption unless having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Extension of these Regulations outside Great Britain

8. These Regulations shall apply in relation to any work with asbestos insulation or asbestos coating to which, or in relation to which, sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of the Health and Safety at Work

etc. Act 1974 (Application outside Great Britain) Order 1977(a), as they apply to such work in Great Britain.

Signed by order of the Secretary of State.

John Selwyn Gummer,
Minister of State,
Department of Employment.

8th November 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide that an employer or self-employed person who undertakes work with asbestos insulation or asbestos coating (as defined in Regulation 2) may only do so in accordance with a licence issued to him by the Health and Safety Executive. The Executive may refuse to issue a licence and may impose conditions in any licence it issues. Section 44 of the Health and Safety at Work etc. Act 1974 provides for appeals against any such decision of the Executive.

The Regulations make an exception where the employer or self-employed person carries out the work in premises of which he is the occupier and has notified the enforcing authority 28 days in advance.

The Regulations also require an employer to ensure that each of his employees is medically examined before he first works with asbestos insulation or asbestos coating and again every 2 years so long as he continues with such work.

The Regulations apply in Great Britain and in circumstances covered by the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1977.

^(a) S.I. 1977/1232.