

1990 No. 556

HEALTH AND SAFETY

**The Control of Asbestos in the Air
Regulations 1990**

<i>Made</i> - - - -	<i>6th March 1990</i>
<i>Laid before Parliament</i>	<i>15th March 1990</i>
<i>Coming into force</i>	<i>5th April 1990</i>

The Secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales, and the Secretary of State for Scotland, as respects Scotland, in exercise of their powers (as respects regulations 1 to 3) under sections 1(1)(b) and (d), 15(1)(a) and (3) and 53(1)(b) of the Health and Safety at Work etc. Act 1974(e), after consulting, in accordance with section 50(1)(d) of that Act, the Health and Safety Commission and such other bodies as it appeared to them to be appropriate to consult, and (as respects regulations 1, 4 and 5) under section 2(2) of the European Communities Act 1972(e) being the Ministers designated(f) for the purposes of that sub-section in relation to the control of air pollution, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Control of Asbestos in the Air Regulations 1990 and subject to paragraph (2) shall come into force on 5th April 1990.

(2) In the case of any premises to which section 5 of the Health and Safety at Work etc. Act 1974 applied before 31st December 1988, regulations 2 and 3 shall come into force on 30th June 1991.

(3) In these Regulations “asbestos” means the following fibrous silicates –
actinolite, amosite, anthophyllite, chrysotile, crocidolite or tremolite.

Limit value for the discharge of asbestos into the air during the use of asbestos

2.—(1) Any person having control of any premises to which section 5 of the Health and Safety at Work etc. Act 1974 applies and from which asbestos is emitted through discharge outlets into the air during the use of asbestos shall ensure that –

(a) Substituted by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraph 6. (b) See the definition of “prescribed”. (c) 1974 c. 37. (d) Substituted by the Employment Protection Act 1975, Schedule 15, paragraph 18. (e) 1972 c. 68. Section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48), and S.I. 1984/447 and section 52(4) of the Criminal Justice Act 1988 (c. 33) and, as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 54 of the Criminal Justice Act 1982 (c. 48) and S.I. 1984/526 and amended by section 66 of the Criminal Justice (Scotland) Act 1987 (c. 41). (f) S.I. 1988/785. (g) O.J. No. L85, 28.3.87, p. 40.

- (a) the concentration of asbestos so discharged, measured by the sampling and analysis procedures described in the Annex to Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos(g), or any other method which gives equivalent results, does not exceed 0.1 milligram of asbestos per cubic metre of air, and
 - (b) the concentration of asbestos so emitted is measured at mentioned in paragraph (a) at regular intervals of not more than 6 months.
- (2) In this regulation –
- “raw asbestos” means the product resulting from the primary crushing of asbestos ore; and
- “use of asbestos” means activities which involve –
- (a) the production of raw asbestos from ore, excluding any process directly associated with the mining of the ore, or
 - (b) the manufacturing and industrial finishing of any of the following products using raw asbestos –
 - asbestos cement, asbestos cement products, asbestos fillers, asbestos filters, asbestos floor coverings, asbestos friction products, asbestos insulating board, asbestos jointing, packaging and reinforcement materials, asbestos packing, asbestos paper and card, and asbestos textiles.

Enforcing authority

3. The Secretary of State shall be the authority responsible for enforcing regulation 2.

Control of environmental pollution by asbestos resulting from the working of products containing asbestos

4.—(1) Any person undertaking activities involving the working of products containing asbestos shall ensure that those activities do not cause significant environmental pollution by asbestos fibres or dust emitted into the air; and

(2) Any person undertaking the demolition of buildings, structures and installations containing asbestos and the removal from them of asbestos or materials containing asbestos involving the release of asbestos fibres or dust into the air shall ensure that significant environmental pollution is not caused thereby.

(3) In this regulation –

“fibre” means a fibre within the meaning of Part B.II of the Annex to Council Directive 87/217/EEC; and

“the working of products containing asbestos” means activities other than the use of asbestos (within the meaning of regulation 2) which are liable to release asbestos into the environment.

5.—(1) Any person who contravenes the provisions of regulation 4 commits an offence and a person guilty of such an offence shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Section 37 (offences by bodies corporate) of the Health and Safety at Work etc. Act 1974 shall apply to an offence under this regulation as it applies to an offence under any of the relevant statutory provisions of that Act.

5th March 1990 *Chris Patten*
Secretary of State for the Environment

6th March 1990 *Peter Walker*
Secretary of State for Wales

6th March 1990 *Malcolm Rifkind*
Secretary of State for Scotland

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to Great Britain and together with the Health and Safety (Emissions into the Atmosphere) (Amendment) Regulations 1989 (S.I. 1989/319) and existing legislation, implement, as regards emissions into the air, Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos.

Regulation 2 prescribes a limit value for the discharge of asbestos from outlets into the air during the use of asbestos, and provides for the regular measurement of asbestos emissions from plants to which that regulation applies. Contravention of these requirements is an offence under section 33 of the Health and Safety at Work etc. Act 1974. Regulation 3 makes the Secretary of State responsible for enforcing regulation 2.

Regulation 4 provides for the control of environmental pollution by asbestos emitted into the air resulting from the working of products or from the demolition of buildings, structures or installations, containing asbestos.

Regulation 5 makes any contravention of regulation 3 an offence, punishable as set out in that regulation.

In the case of premises to which section 5 of the Health and Safety at Work etc. Act 1974 applied before 31st December 1988, regulation 2 does not come into force until 30th June 1991 (regulation 1(2)).