
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations revoke and replace the Control of Asbestos at Work Regulations 2002 (S.I. 2002/2675) and revoke and re-enact, with modifications, the Asbestos (Licensing) Regulations 1983 (S.I. 1983/1649) as amended and the Asbestos (Prohibitions) Regulations 1992 (S.I. 1992/3067) as amended. They implement as respects Great Britain—

- (a) Council Directive 76/769/EEC (“the Marketing and Use Directive”) (OJ No L 262, 27.9.76, p.201), as amended by Council Directives 83/478/EEC (OJ No L 263, 24.9.83 p.33) and 85/467/EEC (OJ No L 269, 11.10.85 p.56), and Commission Directives 91/659/EEC (OJ No L 363, 31.12.91 p.36) and 1999/43/EC (OJ No L 207, 6.8.99 p.18), on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, insofar as it relates to asbestos;
- (b) Council Directive 83/477/EEC (OJ No L 263, 24.9.83, p.25) as amended by Council Directive 91/382/EEC (OJ No L 206, 29.7.91 p.16) and Directive 2003/18/EC of the European Parliament and of the Council (OJ No L 97, 15.4.03, p.48) on the protection of workers from the risks related to exposure to asbestos at work;
- (c) Council Directive 90/394/EEC (OJ No L 196, 26.7.90, p.38) on the protection of workers from the risks related to exposure to carcinogens at work (sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) insofar as it relates to asbestos; and
- (d) Council Directive 98/24/EC (OJ No L131, 5.5.93, p.11) on the protection of the health and safety of workers from the risks related to exposure to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) insofar as it relates to risks to health from exposure to asbestos.

2. The licensing requirements of the Asbestos (Licensing) Regulations 1983 (S.I. 1983/1649, as amended by S.I. 1998/3233) are re-enacted in regulation 8, and licenses made subject to a maximum duration of three years. Provision for exemptions is made in regulation 32(1) and for the validity of existing licenses in regulation 35(1).

3. Part 3 of the regulations re-enact the prohibitions in the Asbestos (Prohibitions) Regulations 1992 (S.I. 1992/3067, as amended by S.I. 1999/2373, S.I. 1999/2977 and S.I. 2003/1889) in updated form omitting expired derogations. Provision for exemptions is carried forward in regulations 32(2) and 33.

4. Part 2 of the Regulations replaces the Control of Asbestos at Work Regulations 2002 (S.I. 2002/2675) and in addition to minor and drafting amendments makes changes of substance including the following —

- (a) includes certain further definitions and introduce a new control limit common to all types of asbestos and lower than that applying previously to any (regulation 2(1));
- (b) provides for the measurement of the control limit by the 1997 World Health Organisation (“WHO”) recommended method set out in the publication “Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method), WHO Geneva 1997 (ISBN 92 4 154496 1) (regulation 2(1));

Status: This is the original version (as it was originally made).

- (c) applies the duties in the regulations to all work with asbestos, save for exceptions in respect of licensing, notification, accident and emergency arrangements, asbestos areas and health surveillance in respect of sporadic and low intensity exposure (regulation 3(2));
- (d) disapplies these Regulations in respect of ships other than naval ships (regulation 3(6));
- (e) extends the list of topics on which information, instruction and training must be given to employees (regulation 10(1));
- (f) provides for the provision of respiratory protective equipment so far as is reasonably practicable to any employee who is exposed to asbestos (regulation 11(2));
- (g) provides that the control limit shall not be exceeded and for the actions to be taken if this should occur (regulation 11(5));
- (h) provides that only competent persons should enter respirator zones or supervise employees in respirator zones (regulation 18(4));
- (i) provides for accreditation of persons who are requested to assess premises for the issue of a site clearance certificate for reoccupation (regulation 20(4)); and
- (j) omits labelling requirements which are now found in Part 3 (regulation 30).

5. European Standards EN ISO/IEC 17020 “General criteria for the operation of various types of bodies performing inspection” accepted by CEN/CENELEC on 15th July 2004 and 17025 “General requirements for the competence of testing and calibration laboratories” accepted by CEN/CENELEC on 15th March 2005 can be obtained from the British Standards Institution, BSI Library and Bookshop, 389 Chiswick High Road, London W4 4AL, or through British Standards Online at www.bsonline.bsi-global.com.

6. The publication “Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method)”, WHO Geneva 1997 (ISBN 92 4 154496 1) can be obtained online at www.who.int/publications/.

7. A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Economic Advisers Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy of the transposition note in relation to implementation of the Directives set out in paragraph 2(b) can be obtained from the Health and Safety Executive, International Branch at the same address. Copies of both these documents have been placed in the Library of each House of Parliament.