
STATUTORY INSTRUMENTS

2006 No. 2739

The Control of Asbestos Regulations 2006

PART 1

PRELIMINARY

Application of these Regulations

3.—(1) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and an employee.

(2) Subject to paragraph (3), regulations 8 (licensing), 9 (notification of work with asbestos), 15(1) (arrangements to deal with accidents, incidents and emergencies), 18(1)(a) (asbestos areas) and 22 (health records and medical surveillance) shall not apply where—

- (a) the exposure of employees to asbestos is sporadic and of low intensity;
- (b) it is clear from the risk assessment that the exposure of any employee to asbestos will not exceed the control limit; and
- (c) the work involves—
 - (i) short, non-continuous maintenance activities,
 - (ii) removal of materials in which the asbestos fibres are firmly linked in a matrix,
 - (iii) encapsulation or sealing of asbestos-containing materials which are in good condition, or
 - (iv) air monitoring and control, and the collection and analysis of samples to ascertain whether a specific material contains asbestos.

(3) No exposure to asbestos will be sporadic and of low intensity within the meaning of paragraph (2)(a) if the concentration of asbestos in the atmosphere when measured in accordance with the 1997 WHO recommended method or by a method giving equivalent results to that method approved by the Health and Safety Commission exceeds or is liable to exceed the concentration approved in relation to a specified reference period for the purposes of this paragraph by the Health and Safety Commission.

(4) Where a duty is placed by these Regulations on an employer in respect of his employees, he shall, so far as is reasonably practicable, be under a like duty in respect of any other person, whether at work or not, who may be affected by the work activity carried out by the employer except that the duties of the employer—

- (a) under regulation 10 (information, instruction and training) shall not extend to persons who are not his employees unless those persons are on the premises where the work is being carried out; and
- (b) under regulation 22 (health records and medical surveillance) shall not extend to persons who are not his employees.

(5) Regulation 17, insofar as it requires an employer to ensure that premises are thoroughly cleaned, shall not apply—

- (a) in England and Wales, to a fire and rescue authority within the meaning of section 1 of the Fire and Rescue Services Act 2004⁽¹⁾, or in Scotland to a relevant authority within the meaning of section 6 of the Fire (Scotland) Act 2005⁽²⁾, in respect of premises attended by its employees for the purpose of fighting a fire or in an emergency; or
- (b) to the employer of persons who attend a ship in dock premises for the purpose of fighting a fire or in an emergency, in respect of any ship so attended,

and for the purposes of this paragraph “ship” includes all vessels and hovercraft which operate on water or land and water, and “dock premises” means a dock, wharf, quay, jetty or other place at which ships load or unload goods or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used or occupied, for those or incidental activities, and any part of a ship when used for those or incidental activities.

(6) These Regulations shall not apply to the master or crew of a ship or to the employer of such persons in respect of the normal shipboard activities of a ship’s crew which are carried out solely by the crew under the direction of the master, and for the purposes of this paragraph “ship” includes every description of vessel used in navigation, other than a ship forming part of Her Majesty’s Navy.

(1) 2004 c.21; section 1(2)(d) was amended by the Civil Contingencies Act 2004 (c. 36), section 32(1) and Schedule 2 Part 1 paragraph 10(1) and (2).

(2) 2005 asp 5.