

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations revoke and replace the Control of Asbestos Regulations 2006 ([S.I. 2006/2739](#) as amended by [S.I. 2007/1573](#), [2008/960](#), [2008/2852](#) and [2009/716](#)) and implement, as respects Great Britain—

- (a) Council Directive [2009/148/EC](#) (OJ No L330, 16.12.2009, p28) which repealed and replaced Council Directive [83/477/EEC](#) (OJ No L263, 24.9.83, p25) as amended by Council Directive [91/382/EEC](#) (OJ No L206, 29.7.91 p16) and Directive [2003/18/EC](#) of the European Parliament and of the Council (OJ No L97, 15.4.03, p48) on the protection of workers from the risks related to exposure to asbestos at work;
- (b) Council Directive [90/394/EEC](#) (OJ No L196, 26.7.90, p38) 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](#)) as codified in Directive [2004/37/EC](#) (OJ No 229, 29.6.2004, p23), insofar as it relates to asbestos; and
- (c) Council Directive [98/24/EC](#) (OJ No L131, 5.5.93, p11) 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. Part 1 of the Regulations re-enacts Part 1 of the Control of Asbestos Regulations 2006 with some amendments. Regulation 2 includes new definitions of “asbestos cement”, “asbestos coating”, “asbestos insulation”, “asbestos insulating board”, “short duration work” and “textured decorative coatings”. The definition of “relevant doctor” has been amended and there is also a new definition of “licensable work with asbestos”.

3. The wording of regulation 3(2) has been amended to include the terms “in which only non-friable materials are handled” and “without deterioration of non-degraded materials” in regulation 3(2)(c)(i) and (ii) respectively. The licensing requirement has been de-coupled from the derogation and the reference to licensing has been removed from regulation 3.

4. Part 2 of the Regulations re-enacts Part 2 of the Control of Asbestos Regulations 2006, and in addition to minor and drafting amendments makes changes of substance including the following—

- (a) regulation 8 refers to licensable work with asbestos which is defined in regulation 2(1);
- (b) regulation 9 makes different provision for notification for work with asbestos (which is not disappplied by regulation 3(2)), depending on whether the work is licensable work with asbestos or not;
- (c) regulation 15 provides for certain arrangements to be in place regarding accidents, incidents and emergencies and makes it clear that different requirements apply if the work is licensable work with asbestos;
- (d) regulation 22 provides for different requirements for medicals and health surveillance depending on whether the work is licensable work with asbestos or not.

5. Part 3 of the Regulations re-enacts the prohibitions in regulation 26 of the Control of Asbestos Regulations 2006 and reflects amendments made by the REACH Enforcement Regulations 2008 ([SI 2008/2852](#)) and the prohibitions provided for by the REACH Regulations (Regulation ([EC](#)) No [1907/2006](#)). Provision for exemptions is carried forward in regulations 29 and 30.

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

6. It has been clarified in regulation 2 that the labelling requirements in regulations 14, 24(2) and (3) and 27 are the same as those provided for by Appendix 7 to Annex XVII of the REACH Regulations (OJ No L396 30.12.2006 p840). The requirements are still referenced in Schedule 2 for ease of reference and the relevant diagram has been included.

7. Regulation 26(4) and Schedule 3 to the Control of Asbestos Regulations 2006 have not been re-enacted since the exception for chrysotile is provided for in Annex XVII to the REACH Regulations (OJ No L136, 29.5.2007, p131).

8. Part 4 of the Regulations re-enacts the provisions of the Control of Asbestos Regulations 2006. Provision for exemptions is re-enacted in regulation 29(1) and for the validity of existing licenses and exemptions in regulation 32(1) and (2).

9. Regulation 35 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

10. Schedule 1 has been amended slightly, the requirements in paragraphs (b)(ii) and (iii) have been merged to better reflect the requirements of Article 4 of the Directive.

11. 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](http://www.bsonline.bsi-global.com).

12. 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/](http://www.who.int/publications/).

13. A full impact assessment of the effect that these Regulations will have on the costs of business is available from the Health and Safety Executive, Redgrave Court, Merton Road, Bootle, Merseyside L20 7HS. A copy of the transposition note in relation to implementation of the Directives set out in paragraph (1) can be obtained from the Health and Safety Executive, International Branch, also at the Redgrave Court address. Copies of both these documents have been placed in the Library of each House of Parliament and are annexed to the Explanatory Memorandum which is available alongside these Regulations at [www.legislation.gov.uk](http://www.legislation.gov.uk).