

Control of Asbestos Regulations 2012 (SI 2012 No. 632)

Part 1: Preliminary

Part 1 covers commencement, interpretation and application.

2: Interpretation

This contains a number of definitions. Of particular note are the following:

"asbestos" means the following fibrous silicates:

- (a) asbestos actinolite, CAS No 77536-66-4;
- (b) asbestos grunerite (amosite), CAS No 12172-73-5;
- (c) asbestos anthophyllite, CAS No 77536-67-5;
- (d) chrysotile, CAS No 12001-29-5 or CAS No 132207-32-0;
- (e) crocidolite, CAS NO 12001-28-4; and
- (f) asbestos tremolite, CAS No 77536-68-6;

"the control limit" means a 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 Executive, of 0.1 fibres per cubic centimetre of air averaged over a continuous period of 4 hours;

"control measure" means a measure taken to prevent or reduce exposure to asbestos (including the provision of systems of work and supervision, the cleaning of workplaces, premises, plant and equipment, and the provision and use of engineering controls and personal protective equipment).

3: Application of these Regulations

Of special note is a relaxation of specific regulations in certain cases:

(2) Regulations 9 (notification of work with asbestos), 18(1)(a) (designated areas) and 22 (health records and medical surveillance) do not apply where:

- (a) the exposure to asbestos of employees is sporadic and of low intensity; and
- (b) it is clear from the risk assessment that the exposure to asbestos of any employee will not exceed the control limit; and
- (c) the work involves:
 - (i) short, non-continuous maintenance activities in which only non-friable materials are handled; or
 - (ii) removal without deterioration of non-degraded materials in which the asbestos fibres are firmly linked in a matrix; or
 - (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.

Part 2: General Requirements

4: Duty to Manage Asbestos in Non-domestic Premises

(1) In this regulation "the dutyholder" means:

- (a) every person who has, by virtue of a contract or tenancy, an obligation of any extent in relation to the maintenance or repair of non-domestic premises or any means of access thereto or egress therefrom; or
- (b) in relation to any part of non-domestic premises where there is no such contract or tenancy, every person who has, to any extent, control of that part of those non-domestic premises or any means of access thereto or egress therefrom, and where there is more than one such dutyholder, the relative contribution to be made by each such person in complying with the requirements of this regulation will be determined by the nature and extent of the maintenance and repair obligation owed by that person.

(2) Every person shall cooperate with the dutyholder so far as is necessary to enable the dutyholder to comply with his duties under this regulation.

(3) In order to enable him to manage the risk from asbestos in non-domestic premises, the dutyholder shall ensure that a suitable and sufficient assessment is carried out as to whether asbestos is or is liable to be present in the premises.

- (4) In making the assessment:
- (a) such steps as are reasonable in the circumstances shall be taken; and
 - (b) the condition of any asbestos which is, or has been assumed to be, present in the premises shall be considered.
- (5) Without prejudice to the generality of paragraph (4), the dutyholder shall ensure that:
- (a) account is taken of building plans or other relevant information and of the age of the premises; and
 - (b) an inspection is made of those parts of the premises which are reasonably accessible.
- (6) The dutyholder shall ensure that the assessment is reviewed forthwith if:
- (a) there is reason to suspect that the assessment is no longer valid; or
 - (b) there has been a significant change in the premises to which the assessment relates.
- (7) The dutyholder shall ensure that the conclusions of the assessment and every review are recorded.
- (8) Where the assessment shows that asbestos is or is liable to be present in any part of the premises the dutyholder shall ensure that:
- (a) a determination of the risk from that asbestos is made;
 - (b) a written plan identifying those parts of the premises concerned is prepared; and
 - (c) the measures which are to be taken for managing the risk are specified in the written plan.
- (9) The measures to be specified in the plan for managing the risk shall include adequate measures for:
- (a) monitoring the condition of any asbestos or any substance containing or suspected of containing asbestos;
 - (b) ensuring any asbestos or any such substance is properly maintained or where necessary safely removed; and
 - (c) ensuring that information about the location and condition of any asbestos or any such substance is:
 - (i) provided to every person liable to disturb it; and
 - (ii) made available to the emergency services.
- (10) The dutyholder shall ensure that:
- (a) the plan is reviewed and revised at regular intervals, and forthwith if:
 - (i) there is reason to suspect that the plan is no longer valid; or
 - (ii) there has been a significant change in the premises to which the plan relates;
 - (b) the measures specified in the plan are implemented; and
 - (c) the measures taken to implement the plan are recorded.
- (11) In this regulation, a reference to:
- (a) "the assessment" is a reference to the assessment required by paragraph (3);
 - (b) "the premises" is a reference to the non-domestic premises referred to in paragraph (1); and
 - (c) "the plan" is a reference to the plan required by paragraph (8).

5: Identification of the Presence of Asbestos

An employer shall not undertake work in demolition, maintenance, or any other work which exposes or is liable to expose his employees to asbestos in respect of any premises unless either:

- (a) he has carried out a suitable and sufficient assessment as to whether asbestos, what type of asbestos, contained in what material and in what condition is present or is liable to be present in those premises; or
- (b) if there is doubt as to whether asbestos is present in those premises he:
 - (i) assumes that asbestos is present, and that it is not chrysotile alone; and
 - (ii) observes the applicable provisions of these Regulations.

6: Assessment of Work which Exposes Employees to Asbestos

- (1) An employer shall not carry out work which is liable to expose his employees to asbestos unless he has:
- (a) made a suitable and sufficient assessment of the risk created by that exposure to the health of those employees and of the steps that need to be taken to meet the requirements of these Regulations;
 - (b) recorded the significant findings of that risk assessment as soon as is practicable after the risk assessment is made; and
 - (c) implemented the steps referred to in sub-paragraph (a).
- (2) Without prejudice to the generality of paragraph (1), the risk assessment shall:
- (a) subject to regulation 5, identify the type of asbestos to which employees are liable to be exposed;
 - (b) determine the nature and degree of exposure which may occur in the course of the work;
 - (c) consider the effects of control measures which have been or will be taken in accordance with regulation 11;
 - (d) consider the results of monitoring of exposure in accordance with regulation 19;
 - (e) set out the steps to be taken to prevent that exposure or reduce it to the lowest level reasonably practicable;
 - (f) consider the results of any medical surveillance that is relevant; and
 - (g) include such additional information as the employer may need in order to complete the risk assessment.
- (3) The risk assessment shall be reviewed regularly, and forthwith if:
- (a) there is reason to suspect that the existing risk assessment is no longer valid;
 - (b) there is a significant change in the work to which the risk assessment relates; or
 - (c) the results of any monitoring carried out pursuant to regulation 19 show it to be necessary;

and where, as a result of the review, changes to the risk assessment are required, those changes shall be made and, where they relate to the significant findings of the risk assessment or are themselves significant, recorded.

(4) Where, in accordance with the requirement in paragraph (2)(b), the risk assessment has determined that the exposure of his employees to asbestos may exceed the control limit, the employer shall keep a copy of the significant findings of the risk assessment at those premises at which, and for such time as, the work to which that risk assessment relates is being carried out.

7: Plans of Work

- (1) An employer shall not undertake any work with asbestos unless he has prepared a suitable written plan of work detailing how that work is to be carried out.
- (2) The employer shall keep a copy of the plan of work at those premises at which the work to which the plan relates is being carried out for such time as that work continues.
- (3) In cases of final demolition or major refurbishment of premises, the plan of work shall, so far as is reasonably practicable, and unless it would cause a greater risk to employees than if the asbestos had been left in place, specify that asbestos shall be removed before any other major works begin.
- (4) The plan of work shall include in particular details of:
- (a) the nature and probable duration of the work;
 - (b) the location of the place where the work is to be carried out;
 - (c) the methods to be applied where the work involves the handling of asbestos or materials containing asbestos;
 - (d) the characteristics of the equipment to be used for:
 - (i) protection and decontamination of those carrying out the work; and
 - (ii) protection of other persons on or near the worksite;
 - (e) the measures which the employer intends to take in order to comply with the requirements of regulation 11; and
 - (f) the measures which the employer intends to take in order to comply with the requirements of regulation 17.
- (5) The employer shall ensure, so far as is reasonably practicable, that the work to which the plan of work relates is carried out in accordance with that plan and any subsequent written changes to it.

8: Licensing of Work with Asbestos

- (1) Subject to regulation 3(2), an employer shall not undertake any work with asbestos unless he holds a licence granted under paragraph (2) of this regulation.
- (2) The Executive may grant a licence for work with asbestos 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 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.

(3) A licence under this regulation:

- (a) shall come into operation on the date specified in the licence, and shall be valid for any period up to a maximum of three years that the Executive may specify in it; and
- (b) may be granted subject to such conditions as the Executive may consider appropriate.

(4) The Executive may vary the terms of a licence under this regulation if it considers it appropriate to do so and in particular may:

- (a) add further conditions and vary or omit existing ones; and
- (b) reduce the period for which the licence is valid or extend that period up to a maximum of three years from the date on which the licence first came into operation.

(5) The Executive may revoke a licence under this regulation if it considers it appropriate to do so.

(6) The holder of a licence under this regulation shall return the licence to the Executive:

- (a) when required by the Executive for any amendment; or
- (b) following its revocation.

9: Notification of Work with Asbestos

(1) For licensable work with asbestos, an employer must notify the appropriate enforcing authority of:

- (a) the particulars specified in Schedule 1 in writing at least 14 days (or such shorter time before as the enforcing authority may agree) before undertaking any licensable work with asbestos; and
- (b) any material change, which might affect the particulars notified in accordance with (1)(a) (including the cessation of the work), in writing and without delay.

(2) For work with asbestos which is not licensable work with asbestos and is not exempted by regulation 3(2), an employer must notify the appropriate enforcing authority of:

- (a) the particulars specified in Schedule 1, before work is commenced; and
- (b) any material change, which might affect the particulars notified in accordance with (2)(a), without delay.

10: Information, Instruction and Training

(1) Every employer shall ensure that adequate information, instruction and training is given to those of his employees:

- (a) who are or who are liable to be exposed to asbestos, or who supervise such employees, so that they are aware of:
 - (i) the properties of asbestos and its effects on health, including its interaction with smoking;
 - (ii) the types of products or materials likely to contain asbestos;
 - (iii) the operations which could result in asbestos exposure and the importance of preventive controls to minimise exposure;
 - (iv) safe work practices, control measures, and protective equipment;
 - (v) the purpose, choice, limitations, proper use and maintenance of respiratory protective equipment;
 - (vi) emergency procedures;
 - (vii) hygiene requirements;
 - (viii) decontamination procedures;
 - (ix) waste handling procedures;
 - (x) medical examination requirements; and
 - (xi) the control limit and the need for air monitoring;

in order to safeguard themselves and other employees; and

- (b) who carry out work in connection with the employer's duties under these Regulations, so that they can carry out that work effectively.

(2) The information, instruction and training required by paragraph (1) shall be:

- (a) given at regular intervals;

(b) adapted to take account of significant changes in the type of work carried out or methods of work used by the employer; and

(c) provided in a manner appropriate to the nature and degree of exposure identified by the risk assessment, and so that the employees are aware of:

- (i) the significant findings of the risk assessment, and
- (ii) the results of any air monitoring carried out with an explanation of the findings.

11: Prevention or Reduction of Exposure to Asbestos

(1) Every employer shall:

(a) prevent the exposure of his employees to asbestos so far as is reasonably practicable;

(b) where it is not reasonably practicable to prevent such exposure:

- (i) take the measures necessary to reduce the exposure of his employees to asbestos to the lowest level reasonably practicable by measures other than the use of respiratory protective equipment; and
- (ii) ensure that the number of his employees who are exposed to asbestos at any one time is as low as is reasonably practicable.

(2) Where it is not reasonably practicable for the employer to prevent the exposure of his employees to asbestos in accordance with paragraph (1)(a), the measures referred to in paragraph (1)(b)(i) shall include, in order of priority:

(a) the design and use of appropriate work processes, systems and engineering controls and the provision and use of suitable work equipment and materials in order to avoid or minimise the release of asbestos; and

(b) the control of exposure at source, including adequate ventilation systems and appropriate organisational measures;

and the employer shall so far as is reasonably practicable provide the employees concerned with suitable respiratory protective equipment in addition to the measures required by sub-paragraphs (a) and (b).

(3) Where it is not reasonably practicable to reduce the exposure of an employee to asbestos to below the control limit by the measures referred to in paragraph (1)(b)(i), then, in addition to taking those measures, the employer shall provide that employee with suitable respiratory protective equipment which will reduce the concentration of asbestos in the air inhaled by the employee (after taking account of the effect of that respiratory protective equipment) to a concentration which is:

(a) below the control limit; and

(b) as low as is reasonably practicable.

(4) Personal protective equipment provided by an employer in accordance with this regulation or with regulation 14(1) shall be suitable for its purpose and shall:

(a) comply with any provision of the **Personal Protective Equipment Regulations 2002** which is applicable to that item of personal protective equipment; or

(b) in the case of respiratory protective equipment, where no provision referred to in sub-paragraph (a) applies, be of a type approved or shall conform to a standard approved, in either case, by the Executive.

(5) The employer shall:

(a) ensure that no employee is exposed to asbestos in a concentration in the air inhaled by that worker which exceeds the control limit; or

(b) if the control limit is exceeded:

- (i) forthwith inform any employees concerned and their representatives and ensure that work does not continue in the affected area until adequate measures have been taken to reduce employees' exposure to asbestos to below the control limit,
- (ii) as soon as is reasonably practicable identify the reasons for the control limit being exceeded and take the appropriate measures to prevent it being exceeded again; and
- (iii) check the effectiveness of the measures taken pursuant to sub-paragraph (ii) by carrying out immediate air monitoring.

12: Use of Control Measures, etc.

(1) Every employer who provides any control measure, other thing or facility pursuant to these Regulations shall take all reasonable steps to ensure that it is properly used or applied as the case may be.

(2) Every employee shall make full and proper use of any control measure, other thing or facility provided pursuant to these Regulations and, where relevant, shall:

- (a) take all reasonable steps to ensure that it is returned after use to any accommodation provided for it; and
- (b) if he discovers a defect therein report it forthwith to his employer.

13: Maintenance of Control Measures, etc.

(1) Every employer who provides any control measure to meet the requirements of these Regulations shall ensure that:

(a) in the case of plant and equipment, including engineering controls and personal protective equipment, it is maintained in an efficient state, in efficient working order, in good repair and in a clean condition; and

(b) in the case of provision of systems of work and supervision and of any other measure, it is reviewed at suitable intervals and revised if necessary.

(2) Where exhaust ventilation equipment or respiratory protective equipment (except disposable respiratory protective equipment) is provided to meet the requirements of these Regulations, the employer shall ensure that thorough examinations and tests of that equipment are carried out at suitable intervals by a competent person.

(3) Every employer shall keep a suitable record of the examinations and tests carried out in accordance with paragraph (2) and of repairs carried out as a result of those examinations and tests, and that record or a suitable summary thereof shall be kept available for at least 5 years from the date on which it was made.

14: Provision and Cleaning of Protective Clothing

(1) Every employer shall provide adequate and suitable protective clothing for such of his employees as are exposed or are liable to be exposed to asbestos, unless no significant quantity of asbestos is liable to be deposited on the clothes of the employee while he is at work.

(2) The employer shall ensure that protective clothing provided in pursuance of paragraph (1) is either disposed of as asbestos waste or adequately cleaned at suitable intervals.

(3) The cleaning required by paragraph (2) shall be carried out either on the premises where the exposure to asbestos has occurred, where those premises are suitably equipped for such cleaning, or in a suitably equipped laundry.

(4) The employer shall ensure that protective clothing which has been used and is to be removed from the premises referred to in paragraph (3) (whether for cleaning, further use or disposal) is packed, before being removed, in a suitable receptacle which shall be labelled in accordance with the provisions of Schedule 2 as if it were a product containing asbestos or, in the case of protective clothing intended for disposal as waste, in accordance with regulation 24(3).

(5) Where, as a result of the failure or improper use of the protective clothing provided in pursuance of paragraph (1), a significant quantity of asbestos is deposited on the personal clothing of an employee, then for the purposes of paragraphs (2), (3) and (4) that personal clothing shall be treated as if it were protective clothing.

15: Arrangements to Deal with Accidents, Incidents and Emergencies

(1) In the event of an accident, incident or emergency related to the unplanned release of asbestos at the workplace, the employer must ensure that:

(a) immediate steps are taken to:

- (i) mitigate the effects of the event;
- (ii) restore the situation to normal; and
- (iii) inform any person who may be affected; and

(b) only those persons who are responsible for the carrying out of repairs and other necessary work are permitted in the affected area and that such persons are provided with:

- (i) appropriate respiratory protective equipment and protective clothing; and
- (ii) any necessary specialised safety equipment and plant, which must be used until the situation is restored to normal.

(2) The remainder of this regulation applies only to licensable work with asbestos, and is without prejudice to the relevant provisions of the **Management of Health and Safety at Work Regulations 1999**.

(3) Subject to paragraph (5), in order to protect the health of an employer's employees from an accident, incident or emergency related to the use of asbestos in a work process or to the removal or repair of asbestos-containing materials at the workplace, the employer must ensure that:

(a) procedures, including the provision of relevant safety drills (which must be tested at regular intervals), have been prepared which can be put into effect when such an event occurs;

(b) information on emergency arrangements is available, including:

- (i) details of relevant work hazards and hazard identification arrangements; and

- (ii) specific hazards likely to arise at the time of an accident, incident or emergency; and
 - (c) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs.
- (4) The employer must ensure that information on the procedures, emergency arrangements and systems required by paragraph (3)(a) and (c) and the information required by paragraph (3)(b) is:
- (a) made available to the relevant accident and emergency services to enable those services, whether internal or external to the workplace, to prepare their own response procedures and precautionary measures; and
 - (b) displayed at the workplace, if this is appropriate.
- (5) Paragraph (3) does not apply where:
- (a) the results of the risk assessment show that, because of the quantity of asbestos present at the workplace, there is only a slight risk to the health of employees; and
 - (b) the measures taken by the employer to comply with the duty under regulation 11(1) are sufficient to control that risk.

16: Duty to Prevent or Reduce the Spread of Asbestos

Every employer shall prevent or, where this is not reasonably practicable, reduce to the lowest level reasonably practicable the spread of asbestos from any place where work under his control is carried out.

17: Cleanliness of Premises and Plant

Every employer who undertakes work which exposes or is liable to expose his employees to asbestos shall ensure that:

- (a) the premises, or those parts of the premises where that work is carried out, and the plant used in connection with that work are kept in a clean state; and
- (b) where such work has been completed, the premises, or those parts of the premises where the work was carried out, are thoroughly cleaned.

18: Designated Areas

(1) Every employer shall ensure that any area in which work under his control is carried out is designated as:

- (a) an asbestos area, subject to regulation 3(2), where any employee would be liable to be exposed to asbestos in that area;
- (b) a respirator zone where the concentration of asbestos fibres in the air in that area would exceed or would be liable to exceed the control limit.

(2) Asbestos areas and respirator zones shall be clearly and separately demarcated and identified by notices indicating:

- (a) that the area is an asbestos area or a respirator zone or both, as the case may be; and
- (b) in the case of a respirator zone, that the exposure of an employee who enters it is liable to exceed the control limit and that respiratory protective equipment must be worn.

(3) The employer shall not permit any employee, other than an employee who by reason of his work is required to be in an area designated as an asbestos area or a respirator zone, to enter or remain in any such area and only employees who are so permitted shall enter or remain in any such area.

(4) Every employer shall ensure that only competent employees shall:

- (a) enter a respirator zone; and
- (b) supervise any employees who enter a respirator zone;

and for the purposes of this paragraph a competent employee means an employee who has received adequate information, instruction and training.

(5) Every employer shall ensure that:

- (a) his employees do not eat, drink or smoke in an area designated as an asbestos area or a respirator zone; and
- (b) arrangements are made for such employees to eat or drink in some other place.

19: Air Monitoring

(1) Subject to paragraph (2), every employer shall monitor the exposure of his employees to asbestos by measurement of asbestos fibres present in the air:

- (a) at regular intervals; and
- (b) when a change occurs which may affect that exposure.

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

- (a) the exposure of an employee is not liable to exceed the control limit; or
- (b) the employer is able to demonstrate by another method of evaluation that the requirements of regulation 11(1) and (5) have been complied with.
- (3) The employer shall keep a suitable record of:
 - (a) monitoring carried out in accordance with paragraph (1); or
 - (b) where he decides that monitoring is not required because paragraph 2(b) applies, the reason for that decision.
- (4) The record required by paragraph (3), or a suitable summary thereof, shall be kept:
 - (a) in a case where exposure is such that a health record is required to be kept under regulation 22 for at least 40 years; or
 - (b) in any other case, for at least 5 years, from the date of the last entry made in it.
- (5) In relation to the record required by paragraph (3), the employer shall:
 - (a) on reasonable notice being given, allow an employee access to his personal monitoring record;
 - (b) provide the Executive with copies of such monitoring records as the Executive may require; and
 - (c) if he ceases to trade, notify the Executive forthwith in writing and make available to the Executive all monitoring records kept by him.

20: Standards for Air Testing and Site Clearance Certification

- (1) In paragraph (4) "site clearance certificate for reoccupation" means a certificate issued to confirm that premises or parts of premises where work with asbestos has been carried out have been thoroughly cleaned upon completion of that work in accordance with regulation 17(b).
- (2) Every employer who carries out any measurement of the concentration of asbestos fibres present in the air shall ensure that he meets criteria equivalent to those set out in the paragraphs of ISO 17025 which cover organisation, quality systems, control of records, personnel, accommodation and environmental conditions, test and calibration methods, method validation, equipment, handling of test and calibration items, and reporting results.
- (3) Every employer who requests a person to carry out any measurement of the concentration of asbestos fibres present in the air shall ensure that that person is accredited by an appropriate body as competent to perform work in compliance with ISO 17025.
- (4) Every employer who requests a person to assess whether premises or parts of premises where work with asbestos has been carried out have been thoroughly cleaned upon completion of that work and are suitable for reoccupation such that a site clearance certificate for reoccupation can be issued shall ensure that that person is accredited by an appropriate body as competent to perform work in compliance with the paragraphs of ISO 17020 and ISO 17025 which cover organisation, quality systems, control of records, personnel, accommodation and environmental conditions, test and calibration methods, method validation, equipment, handling of test and calibration items, and reporting results.
- (5) Paragraphs (2) and (3) shall not apply to work carried out in a laboratory for the purposes only of research.

21: Standards for Analysis

- (1) Every employer who analyses a sample of any material to determine whether it contains asbestos shall ensure that he meets criteria equivalent to those set out in the paragraphs of ISO 17025 which cover organisation, quality systems, control of records, personnel, accommodation and environmental conditions, test and calibration methods, method validation, equipment, handling of test and calibration items, and reporting results.
- (2) Every employer who requests a person to analyse a sample of any material taken to determine whether it contains asbestos shall ensure that that person is accredited by an appropriate body as competent to perform work in compliance with ISO 17025.
- (3) Paragraphs (1) and (2) shall not apply to work carried out in a laboratory for the purposes only of research.

22: Health Records and Medical Surveillance

- (1) For licensable work with asbestos every employer must ensure that:
 - (a) a health record is maintained and contains particulars approved by the Executive for all of that employer's employees who are exposed to asbestos; and
 - (b) that record, or a copy of that record is kept available in a suitable form for at least 40 years from the date of the last entry made in it; and
 - (c) each employee who is exposed to asbestos is under adequate medical surveillance by a relevant doctor.
- (2) The medical surveillance required by paragraph (1)(c) must include:
 - (a) a medical examination not more than 2 years before the beginning of such exposure; and

(b) periodic medical examinations at intervals of at least once every 2 years or such shorter time as the relevant doctor may require while such exposure continues;

and each such medical examination must include a specific examination of the chest.

(3) For work with asbestos, which is not licensable work with asbestos, and is not exempted by regulation 3(2), the requirements in paragraphs (1)(a) to (c) apply and:

(a) a medical examination in accordance with paragraph (1)(c) and (2)(a) must take place on or before 30 April 2015;

(b) on or after 1 May 2015, a medical examination in accordance with paragraph (1)(c) and (2)(a) must take place not more than 3 years before the beginning of such exposure; and

(c) a periodic medical examination in accordance with paragraph (1)(c) and (2)(b) must take place at intervals of at least once every 3 years, or such shorter time as the relevant doctor may require while such exposure continues.

(4) Where an employee has been examined in accordance with paragraph (1)(c), the relevant doctor must issue a certificate to the employer and employee stating:

(a) that the employee has been so examined; and

(b) the date of the examination;

and the employer must keep that certificate, or a copy of that certificate for at least 4 years from the date on which it was issued.

(5) An employee to whom this regulation applies must, when required by that employee's employer and at the cost of that employer, attend during the employee's working hours such examination and undertake such tests as may be required for the purposes of paragraph (1)(c) and must furnish the relevant doctor with such information concerning that employee's health as the relevant doctor may reasonably require.

(6) Where, for the purpose of carrying out functions under these Regulations, a relevant doctor requires to inspect any record kept for the purposes of these Regulations, the employer must permit that doctor to do so.

(7) Where medical surveillance is carried out on the premises of the employer, the employer must ensure that suitable facilities are made available for the purpose.

(8) The employer must:

(a) on reasonable notice being given, allow an employee access to that employee's personal health record;

(b) provide the Executive with copies of such personal health records as the Executive may require; and

(c) if the employer ceases to trade notify the Executive without delay in writing and make available to the Executive all personal health records kept by that employer.

(9) Where, as a result of medical surveillance, an employee is found to have an identifiable disease or adverse health effect which is considered by a relevant doctor to be the result of exposure to asbestos at work, the employer of that employee must:

(a) ensure that a suitable person informs the employee accordingly and provides the employee with information and advice regarding further medical surveillance;

(b) review the risk assessment;

(c) review any measure taken to comply with regulation 11 taking into account any advice given by a relevant doctor or by the Executive;

(d) consider assigning the employee to alternative work where there is no risk of further exposure to asbestos, taking into account any advice given by a relevant doctor; and

(e) provide for a review of the health of every other employee who has been similarly exposed, including a medical examination (which must include a specific examination of the chest) where such an examination is recommended by a relevant doctor or by the Executive.

23: Washing and Changing Facilities

(1) Every employer shall ensure that, for any of his employees who is exposed or liable to be exposed to asbestos, there be provided:

(a) adequate washing and changing facilities;

(b) where he is required to provide protective clothing, adequate facilities for the storage of:

(i) that protective clothing; and

(ii) personal clothing not worn during working hours; and

(c) where he is required to provide respiratory protective equipment, adequate facilities for the storage of that equipment.

(2) The facilities provided under paragraph (1) for the storage of:

- (a) personal protective clothing;
- (b) personal clothing not worn during working hours; and
- (c) respiratory protective equipment;

shall be separate from each other.

24: Storage, Distribution and Labelling of Raw Asbestos and Asbestos Waste

(1) Every employer who undertakes work with asbestos shall ensure that raw asbestos or waste which contains asbestos is not:

- (a) stored;
- (b) received into or despatched from any place of work; or
- (c) distributed within any place of work, except in a totally enclosed distribution system;

unless it is in a sealed receptacle or, where more appropriate, sealed wrapping, clearly marked in accordance with paragraphs (2) and (3) showing that it contains asbestos.

(2) Raw asbestos shall be labelled in accordance with the provisions of Schedule 2.

(3) Waste containing asbestos shall be labelled:

(a) where the **Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009** apply, in accordance with those Regulations; and

(b) in any other case in accordance with the provisions of Schedule 2.

Part 3: Prohibitions and Related Provisions

25: Interpretation of Prohibitions

(1) In this Part:

“asbestos spraying” means the application by spraying of any material containing asbestos to form a continuous surface coating;

“extraction of asbestos” means the extraction by mining or otherwise of asbestos as the primary product of such extraction, but does not include extraction which produces asbestos as a by-product of the primary activity of extraction; and

“supply” means supply by way of sale, lease, hire, hire-purchase, loan, gift or exchange for a consideration other than money, whether (in all cases) as principal or as agent for another.

(2) Any prohibition imposed on any person by this Part applies only to acts done in the course of a trade, business or other undertaking (whether for profit or not) carried on by that person.

(3) Where in this Part it is stated that asbestos has intentionally been added to a product or is intentionally added, it will be presumed where:

- (a) asbestos is present in any product; and
- (b) asbestos is not a naturally occurring impurity of that product, or of any component or constituent of that product;

that the asbestos has intentionally been added or is intentionally added, as the case may be, subject to evidence to the contrary being adduced in any proceedings.

26: Prohibitions of Exposure to Asbestos

(1) No person shall undertake asbestos spraying or working procedures that involve using low-density (less than 1g/cm³) insulating or soundproofing materials which contain asbestos.

(2) Every employer shall ensure that no employees are exposed to asbestos during the extraction of asbestos.

(3) Every employer shall ensure that no employees are exposed to asbestos during the manufacture of asbestos products or of products containing intentionally added asbestos.

27: Labelling of Products Containing Asbestos

(1) Subject to paragraph (2), a person shall not supply under an exception in Schedule 3 or an exemption granted pursuant to regulation 29 or regulation 30 a product which contains asbestos unless that product is labelled in accordance with the provisions of Schedule 2.

(2) Where a component of a product contains asbestos, it shall be sufficient compliance with this regulation if that component is labelled in accordance with the provisions of Schedule 2 except that where the size of that component makes it impossible for a label to be fixed to it neither that component nor the product need be labelled.

28: Additional Provisions in the Case of Exceptions and Exemptions

(1) Where under an exception in Schedule 3 or an exemption granted pursuant to regulation 29 or regulation 30 asbestos is used in a work process or is produced by a work process, the employer shall ensure that the quantity of asbestos and materials containing asbestos at the premises where the work is carried out is reduced to as low a level as is reasonably practicable.

(2) Subject to paragraph (3), where under an exception in Schedule 3 or an exemption granted pursuant to regulation 29 or regulation 30 a manufacturing process which gives rise to asbestos dust is carried out in a building, the employer shall ensure that any part of the building in which the process is carried out is:

(a) so designed and constructed as to facilitate cleaning; and

(b) equipped with an adequate and suitable vacuum cleaning system which shall, where reasonably practicable, be a fixed system.

(3) Paragraph 2(a) shall not apply to a building in which, prior to 1 March 1988, there was carried out a process to which either:

(a) as then in force, regulation 13 of the **Asbestos Regulations 1969** applied and the process was carried out in compliance with that regulation; or

(b) that regulation did not apply.

Part 4: Miscellaneous

29: Exemption Certificates

(1) Subject to paragraph (3), the Executive may, by a certificate in writing, exempt any person or class of persons or any product containing asbestos or class of such products from all or any of the requirements or prohibitions imposed by regulations 4, 8, 12, 13, 21 and 22(5) and (7) and any such exemption may be granted subject to conditions and to a limit of time and may be varied or revoked by a further certificate in writing at any time.

(2) Subject to paragraph (3), the Executive may exempt emergency services from all or any of the requirements or prohibitions imposed by regulations 7 and 9; and any such exemption may be granted subject to conditions and to a limit of time and may be varied or revoked by a further certificate in writing at any time.

(3) The Executive must not grant any exemption under paragraph (1) or (2) 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 or safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

30: Exemptions Relating to the Ministry of Defence

The Secretary of State for Defence may, in the interests of national security, exempt any person or class of persons from the prohibition imposed by Part 3 of these Regulations by a certificate in writing, and any such exemption may be granted subject to conditions and to a limit of time and may be varied or revoked by a further certificate in writing at any time.

31: Extension Outside Great Britain

These Regulations shall apply to any work outside Great Britain to which Sections 1 to 59 and 80 to 82 of the **Health and Safety at Work, etc. Act 1974** apply by virtue of the **Health and Safety at Work, etc. Act 1974 (Application Outside Great Britain) Order 2001** as they apply to work in Great Britain.

32: Existing Licences and Exemption Certificates

(1) An existing licence granted by the Executive under regulation 8(2) of the **Control of Asbestos Regulations 2006** shall:

(a) continue to have effect as if it had been granted under regulation 8(2) of these Regulations;

(b) be of the duration and subject to the conditions specified in it as if that duration and those conditions had been specified under regulation 8(3); and

(c) be liable to variation and revocation under regulation 8(4) and (5);

and any requirement in such a licence concerning notification or any exception to such a requirement has effect as a requirement for notification under regulation 9, or as an exception to such a requirement under regulation 3(2) of these Regulations.

(2) An existing exemption granted by the Executive under regulation 7(1) of the **Asbestos (Licensing) Regulations 1983**, regulation 8(1) of the **Asbestos (Prohibitions) Regulations 1992**, regulation 25(1) of the **Control of Asbestos at Work Regulations 2002** or regulation 32 of the **Control of Asbestos Regulations 2006** continues to have effect and be

subject to any limitation of time or any conditions specified in it and liable to revocation as if it had been granted under regulation 29(1) or (2) of these Regulations.

(3) An existing exemption granted by the Secretary of State for Defence under regulation 8(3) of the **Asbestos (Prohibitions) Regulations 1992** or regulation 33 of the **Control of Asbestos Regulations 2006** continues to have effect and be subject to any limitation of time or any conditions specified in it and liable to revocation as if it had been granted under regulation 30 of these Regulations.

33: Revocations and Savings

(1) The **Control of Asbestos Regulations 2006** are revoked.

(2) The amendments listed in Schedule 3 will have effect.

(3) Any record or register required to be kept under the Regulations revoked either by paragraph(1), or by any of the Regulations revoked by regulation 36(1) of the **Control of Asbestos Regulations 2006** or by regulation 27(1) of the **Control of Asbestos at Work Regulations 2002** shall, notwithstanding that revocation, be kept in the same manner and for the same period as specified in those Regulations as if these Regulations had not been made, except that the Executive may approve the keeping of records at a place or in a form other than at the place where, or in the form in which, records were required to be kept under the Regulations so revoked.

34: Defence

Subject to regulation 21 of the **Management of Health and Safety at Work Regulations 1999** in any proceedings for an offence consisting of a contravention of Part 2 of these Regulations it shall be a defence for any person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.