



# **A summary of the proposals for the Control of Asbestos at Work Regulations**

Proposals for the amendment of the  
Control of Asbestos at Work Regulations 1987 and  
a new Approved Code of Practice.

A minor amendment of the Health and Safety  
(Enforcing Authority) Regulations 1998.



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to reach the section no later than 20 October 2000

## **INTRODUCTION**

This summary outlines the Health and Safety Commission's proposals:

- to tighten and refocus the Control of Asbestos at Work Regulations 1987
- to amend the Health and Safety (Enforcing Authority) Regulations 1998
- to introduce a new Approved Code of Practice for the management of asbestos in workplace premises

The proposals are set out in detail in the consultative document CD159.

## **THE CONTROL OF ASBESTOS AT WORK REGULATIONS 1987**

### **Managing the risk from asbestos in workplace premises**

The Control of Asbestos at Work Regulations (CAW), which govern all work with asbestos, were introduced in 1987. The Regulations were amended in 1998 to cover all those people who are liable to be exposed to asbestos. This included building workers, plumbers, electricians and carpenters, identified as the largest group of workers currently at risk from asbestos exposure by Professor Peto, HSE epidemiologists and other researchers.\* A quarter of the 3000 people a year now dying from asbestos-related diseases have worked in the building trade at some point.

A major problem facing these workers is that often they do not know when and where they may encounter asbestos in their work. In many cases they and their employers cannot make a good assessment of the risk before starting as information on asbestos in the premises is not available.

While there are several existing general duties on employers to prepare a risk assessment, to make written arrangements to protect those at risk and to maintain workplace buildings to protect workers and occupants these existing regulations do not say how the work is to be done.

HSC therefore proposes a new Regulation that will place an explicit duty on people in control of premises which would require them to:

- take reasonable steps to locate materials likely to contain asbestos;
- assume that any material contains asbestos unless there is evidence that they do not;
- keep an up-to-date written record of the location of these materials;
- monitor the condition of these materials;
- assess the risk of exposure from asbestos and presumed-asbestos materials; and
- prepare and implement a management plan to control these risks.

The HSC also proposes to publish an Approved Code of Practice (ACOP) to advise employers how to comply with the new duties imposed by this Regulation.

### **Chemical Agents Directive**

The Chemical Agents Directive (CAD) was adopted by the European Council of Ministers on 7 April 1998, and member states have until 5 May 2001 to implement its provisions. The directive sets out the minimum

\* Peto J, Hodgson J 'Continuing increase in mesothelioma mortality in Britain' *The Lancet* 1995 345 (8949) 535-539

requirements for the protection for the health and safety of workers who deal with hazardous chemical agents. Although most of the requirements of CAD are in place for asbestos, within the existing ACOP, the directive must be strictly translated into regulations. The only major change is that all risk assessments must in future be written down. The amendments proposed are:

- to require that all risk assessments must be written down where there is liable to be exposure to asbestos;
- to require a new risk assessment before any new asbestos work begins and revisions to be made where there are changes in the work or air monitoring results;
- to include a written plan of the work in the assessment showing the range and use of control measures;
- to reduce the number of workers exposed to asbestos to a minimum;
- to reduce asbestos waste and stocks held on site to a minimum;
- to specify in detail the protection and prevention measures for work;
- to take immediate steps to reduce exposure to asbestos where the *control level* or *action limit* is exceeded;
- to require information on the location of asbestos to be made available to the emergency services;
- to specify in detail the training needs for anyone liable to be exposed to asbestos.

## **THE HEALTH AND SAFETY (ENFORCING AUTHORITY) REGULATIONS 1998**

The Health and Safety (Enforcing Authority) Regulations 1998 (EA) allocates responsibility between HSE and local authorities (LAs) for enforcing the Health and Safety at Work etc Act 1974 on a general basis for the main activities carried on in premises. There are exceptions listed in the Schedule to EA including construction work carried out in a physically segregated area of the premises. This means that enforcement for asbestos work carried out in *an enclosure* is legally the responsibility of HSE even on premises enforced by LAs.

HSC proposes to amend EA so that where an enclosure is erected solely for the purpose of preventing asbestos being released into other parts of the building a change of the enforcing authority will not be triggered.

## **CONSULTATION**

Full details of the proposals are set out in the CD159, which runs to about 145 pages. You can get a copy from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA. Tel: 01787 881165 Fax: 01787 313995. Alternatively the document can be viewed and downloaded from the HSE website: [www.hse.gov.uk](http://www.hse.gov.uk), under *What's New*.

HSC would welcome your views on these proposals. The closing date for responses is 20 October 2000. The consultation process will be as open as possible, and a record of all respondents and their comments will be kept on a register which can be inspected by members of the public or copied (on payment of a administrative charge).

If anyone wishes their comments to be confidential, this will be respected, but the register will indicate that this is the case. HSC invites comments on the basis that these arrangement are accepted.

## EVALUATION OF COSTS AND BENEFITS

HSC believes that the proposals would make a significant contribution to its overall strategy to reduce asbestos-related diseases. A summary of the Regulatory Impact Assessment (RIA) is presented in CD159. This focuses mainly on the duty to manage asbestos in premises because this has very significant costs and benefits. The assessment of these costs and benefits has been very difficult because the long latency time before the onset of asbestos-related diseases meant that it had to cover a fifty-year period. The RIA states that:

- the total cost of the preferred option is £4.8 billion
- the total benefits are valued on the basis of the willingness to pay to avoid risks at between £6.6 and £8.4 billion

The cost of implementing the CAD is estimated at £323 million.

There are no significant costs associated with the change to EA.

## PROPOSED TIMING

Subject to consultation and ministerial approval, most of the proposals would come into effect by May 2001. However, the proposals for the duty to manage the risk from asbestos in premises may have a long lead-in time before it comes into force, depending upon the view of consultees.



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