Asbestos: Notifiable Non-Licensed Work

A Minor Change or a Significant Challenge
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The Control of Asbestos Regulations 2012

• New Regulations introduced to fully comply with EC Directive 83/477/EEC as amended by Directive 2003/18/EC on the protection of workers from the risks to exposure to asbestos at work

• The EEC view was that the CAR 2006 did not fully implement the above Directives
Why didn’t CAR 2006 fully implement the EC Directives? - the CAR 2006 Exemptions

• Regulation 3(2) of CAR 2006 provided exemptions for some categories of asbestos work to
  • Notify work with asbestos to the enforcing authority
  • Carry out medical examinations
  • Maintain a register for each worker of the type and duration of work done with asbestos
  • Hold a license for the work
  • Have arrangements to deal with accidents, incidents and emergencies
  • Designate asbestos areas
What work was exempt from these requirements under CAR 2006?

- The exposure of employees to asbestos was sporadic and low intensity

- It is clear from the risk assessment that the exposure would not exceed the control limit and the work involves
  - Short non-continuous maintenance activity
  - Removal of materials in which the asbestos fibres are firmly linked in a matrix
  - Encapsulation or sealing of asbestos materials which are in good condition
  - Air monitoring and control and the collection and analysis of samples to determine asbestos content
What is the control limit for exposure to asbestos?

- The control limit means a concentration of asbestos in the atmosphere of 0.1 fibres per cubic centimetre of air measured over a continuous period of 4 hours.

- If it is the case that an exposure at or above the Control Limit occurs then employers must provide employees with suitable respiratory protective equipment if there is no other way of reducing the exposure to as low as reasonably practicable and at least to below the control limit of 0.1 fibres per cubic centimetre of air.
What is meant by Sporadic and low intensity?

- No exposure to asbestos will be sporadic and of low intensity if the concentration of asbestos in the air exceeds or is liable to exceed 0.6 fibres per cm$^3$ as measured over a 10 minute period.

- When work with materials in which the asbestos fibres are firmly linked in a matrix which meets the definition of Sporadic and Low intensity and it was clear from the risk assessment that the Control Limit of 0.1 fibres per cm$^3$ of air was not exceeded then exemptions provided by Regulation 3(2) of CAR 2006 applied.
Materials in which asbestos fibres are firmly linked

Include:
Asbestos cement
- Textured decorative coatings and paints
- Bitumen, plastic, resin or rubber products which contain asbestos e.g. vinyl floor tiles, electric cables, roofing felt
- Other materials may include
  - Paper linings
  - Cardboards
  - Felts
  - Textiles
  - Gaskets and washers
Short duration work with asbestos insulation and insulating board

- Due to the ease with which fibres can be released when working with asbestos insulation and insulating board, most work can only be carried out by companies holding a License.

- However, an exemption to the requirement to hold a License applies to short duration work where the risk assessment demonstrates that the sporadic and low intensity threshold and the control limit will not be exceeded.
Short duration work criteria for work with asbestos insulation and asbestos insulating board

• Work carried on such materials out by one person for less than one hour in any seven day period

• The total time spent by all persons on such work not to exceed a total of two hours per week
Why hasn’t CAR 2006 fully implemented the EC Directive?

The EEC of the view that CAR 2006 has not fully Implemented the EEC Directive because

- The reference to short, non-continuous maintenance activities has omitted the words “in which only non-friable materials are handled” and

- The reference to the removal of materials in which fibres are firmly linked in a matrix has omitted the words “without deterioration of non-degraded materials”
What are the consequence of the new Regulations?

The inclusion of the two terms in the revised regulations has the effect of reducing the types of lower risk work with Asbestos which are exempt from the requirements to:

- Notify work with asbestos
- Carry out medical surveillance
- Maintain a register for each worker of the type and duration of work done
What are the consequence of the new Regulations?

The new regulations will therefore create three categories of work with asbestos

- **Non licensed work** which will be exempt from the requirements to
  - Notify the work to the enforcing authority
  - Carry out medical examinations
  - Maintain registers of work
  - Hold a license
  - Have arrangements to deal with accidents, incidents and emergencies and
  - Designate asbestos areas
A new category of **Notifiable Non-Licensed Work** which will be exempt only from the requirements to:

- Hold a license
- Have arrangements to deal with accidents, incidents, and emergencies
- Designate asbestos areas

For this category of work however there will be a requirement to:

- Notify the work to the enforcing authority
- Carry out medical examinations
- Maintain registers of work
CAR 2012 - New categories of work

- **Licensable Work** for which the requirements will be as at present to
  - Notify the work
  - Carry out medical surveillance
  - Maintain registers of work
  - Hold a license
  - Have arrangements to deal with accidents, incidents and emergencies and
  - Designate asbestos areas
Definition of Licensable work

- Licensable work will continue to be
  - Work where the exposure to employees will not be sporadic and of low intensity
  - Work for which the risk assessment demonstrates that the control limit is likely to be exceeded
- Work on asbestos coatings
- Work on asbestos insulating board or asbestos insulation which the risk assessment demonstrates that the work
  - Is not sporadic and of low intensity or
  - Is such that the control limit is likely to be exceeded
- Is not short duration
Work with decorative coatings

• Work on asbestos coatings as contained within the definition of Licensable work does not apply for the vast majority of cases to decorative coatings such as artex
  • The Approved Code of Practice “Work with materials containing asbestos” L143 advises that work with such materials will not normally need to be carried out by a person licensed to work with asbestos
  • The definition in the ACOP says that the proportion of asbestos in such coatings contain between 2% and 5% asbestos fibre
  • The proposal for the new Regulations referred to decorative coatings as containing less than 6% asbestos
  • The issue is that the approved methods of analysis do not allow the asbestos content to be determined
  • We have raised this with the HSE during the consultation process
Work which normally fall into the NNLW category

- Minor work involving the repair of asbestos insulation
- Must be undertaken within the time frames to be classed as short duration
- Would need to consider whether there has been any spread of contamination in which case a more involved solution would be required
Work which will normally fall into the NNLW category

- Minor work with Asbestos insulating board (AIB)
- Must meet the short duration criteria
- Could involve unscrewing an AIB panel fixed with screws
- All necessary control measure as detailed in the HSE Guidance Note “Asbestos Essentials – Task Manual” must be observed

Short duration maintenance work with AIB in good condition will not normally be Notifiable
Work which will normally fall into the NNLW category

Removal of asbestos paper or cardboard products if not firmly bonded in a matrix
Work which normally fall into the NNLW category

• Maintenance work on asbestos cement (AC)
• Not of a short or non-continuous nature i.e. larger projects
• Will not need a license because the exposure would not exceed the sporadic and low intensity threshold
• Will not exceed the control limit for exposure to airborne asbestos
Work which normally fall into the NNLW category

- Removal of AC which is substantially degraded e.g. fire damaged
- Normally where significant breakage has occurred
- Or where significant breakage will unavoidably occur during removal
- Will not need a license because sporadic and low intensity threshold will not be exceeded
- Work will not result in the control limit being exceeded
Work which normally fall into the NNLW category

Removal work involving decorative coatings where method requires deterioration of the material which could involve:

- Steam treatment
- Use of hydrating gels
- Scraping off the underlying surface
Work which will not be considered as Licensable or NNLW

- Short, non-continuous work with AIB in good condition
  - Drilling holes to attach fittings or pass through cables
  - Repairing very minor damage e.g. single broken corner
  - Cleaning light fittings attached to AIB
  - Lifting ceiling tiles for inspection and access
- All control measures as per HSG 210 should be employed
Work which will not be considered as Licensable or NNLW

- Short non continuous maintenance on AC
- Removal of AC – weathered AC will normally retain the vast majority of fibres in its matrix and should not be regarded as degraded
- Should endeavour to remove sheets whole to minimise fibre release
- Appropriate controls should be employed as per HSG 210
Work which will not be considered as Licensable or NNLW

- Short non-continuous maintenance work on decorative coatings
  - Drilling holes
  - Inserting screws
- Removal of decorative coatings when this can be achieved without deterioration of the material
  - By careful cutting around the edges of the backing sheets to removal in tact
- All controls as detailed HSG 210 must be employed
- All waste segregated as asbestos waste and disposed of in accordance with the Hazardous Waste Regulations 2005
Work which will not be considered as Licensable or NNLW

- Removal of gaskets or asbestos rope cords from heating appliances
- Could be left in situ for disposal
- Otherwise can be lifted out virtually intact without substantial breakage
- All necessary controls as per HSG 210 to be employed
- All waste disposed of in accordance with Hazardous Waste Regulations 2005
Work which will not be considered as Licensable or NNLW

Short non-continuous maintenance work on clutch discs and other asbestos-containing friction products unless there is significant damage or deterioration caused possibly by power tools.

Asbestos – containing break linings in lift motors
Work which will not be considered as Licensable or NNLW

• Work to enclose or seal asbestos materials which are in good condition and which do not require a license
• Air Monitoring and control and the collection and analysis of samples
Requirements relating to NNLW

• Notification of work to be made to the enforcing authority before the work commences
• Medical examinations to assess each worker’s state of health to be implemented before work carried out and then every 3 years – every 2 years for licensed work
• A 3 year transition period is to be applied before the requirement for an employee to have a medical to start work with asbestos comes into force (April 2015)
• Medical records to be kept for 40 years
• Note – for any uncontrolled exposures to airborne asbestos a record should be kept on the employee’s HR file indefinitely
### ASB NNLW1 Notification Forms

**Health and Safety Executive**

**Health & Safety at Work Act 1974, Control of Asbestos Regulations 2016**

#### ASB NNLW1 - Notification of non-licensed work with asbestos

**Please read the guidance (via the Form Help button) before completing this notification.**

**Contact details**

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**Location of work being notified**

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**About the asbestos**

- **Asbestos type**: Select One
- **Other asbestos type**
  - Other asbestos type

- **Estimated quantity of asbestos**
- **No. workers involved**
- **Start date**
- **Duration of the work**

**Activity and process involved**

- **Activity and process involved**

**Measures taken (select all that apply)**

- Workers trained in control measures
- Use of FFP3 respirator or equivalent and disposable overalls
- Use of non-powered hand tools and wetting methods
- Use of Class H vacuum
- Intact removal of whole panel tiles
- Dust containment e.g., enclosure
- Use of steaming or gel e.g., for textured decorative coatings
- Other (please specify)

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**On line notification form ASB NNLW1 similar to ASB5 for licensed work**
Changes to the Legislation: NNLW: Requirements for Medicals

(ii) Medical examinations:

- Must include an examination of the chest and be carried out by a registered medical practitioner

(iii) Registers of work (health records):

- Details of the individual worker
- The nature and duration of work with asbestos and exposure
- Dates of the worker’s medical examinations

More detailed medical records will be kept by the doctor
Use this simple flow chart to help you decide who needs to do the work:

1. **Loose asbestos, asbestos coating, lagging, badly damaged Asbestos Insulating Board (AIB) or insulation**
   - If yes, the task needs an HSE-licensed contractor.
   - If no, proceed to the next step.

2. **(AIB) or asbestos insulation in good condition**
   - If yes, does work with this material involve someone working for more than one hour in a week?
     - If yes, the task is not licensed.
     - If no, proceed to the next step.
   - If no, does work involve two or more workers, does their total work time exceed two hours, start to finish, in a week?
     - If yes, the task needs an HSE-licensed contractor.
     - If no, is the work Notifiable non-licensed work?
       - If yes, the task is not licensed.
       - If no, the task is not licensed.

3. **Asbestos cement sheet, textured decorative coatings, articles containing asbestos, eg gaskets, textiles, floor tiles etc**
   - If yes, the task is not licensed.
   - If no, proceed to the next step.

   Conclusion:
   - If any box indicates a yes, additional licensing may be required.
   - If all boxes indicate a no, the task is not licensed.

**Accreditation | Auditing | Consulting | Training**
Is the work ‘removal’?

- YES
  - Is the material highly friable (high fibre release when disturbed) and/or poorly bonded in matrix, eg asbestos insulation, or is it in poor condition/likely to deteriorate when worked on?

- NO
  - Is the material non-friable (low fibre release when disturbed) and in good condition? eg asbestos cement, floor tiles, bitumen felt

Is the work ‘maintenance’?

- YES
  - Is the work ‘encapsulation’ or related to air monitoring/control or taking/analysing samples?

- NO
  - Notifiable non-licensed work
    - Notify the work to the enforcing authority, keep a record of the job and ensure all workers have had a medical examination (from April 2015)

Non-licensed work

- Use the appropriate task sheet with the relevant equipment and method sheet(s). Minimise the number of people present
Illustration of Asbestos Work Categories

- Loose fill lagging insulation
- Lagging and sprayed insulation
- Asbestos insulation – if significant work that exceeds the control limit
- Loose dust & small pieces of debris (gross contamination)
- Asbestos insulating board (AIB) – if significant work that exceeds the control limit
- Asbestos insulation/ AIB – if short duration work below control limit and removal work not part of maintenance
- Textured decorative coatings – using gels/steam to for large-scale removal
- Paper, felt and cardboard e.g. electrical equipment insulation, ropes and yarns or cloth, or gaskets and washers – depending on condition – if poor condition or degraded during work NNLW, if kept virtually intact non-licensed
- AIB – if short duration work below control limit and part of maintenance work
- Textured decorative coatings – only when carefully cutting around backing sheets to achieve removal intact
- Strings kept virtually intact e.g. removed whole
- Resin-based materials e.g. friction products/brake lining
- Conveyor belts/ drive belts
- Asbestos cement products
- Thermoplastic/vinyl floor tiles, bitumen roof felt shingles, asbestos paper damp proof coatings, mastic, asbestos paper backed PVC floors, resurfaced PVC panels & compounds

High fibre release when disturbed = higher risk work

Licensed Asbestos Work

Notifiable Non-Licensed Asbestos Work

Non-Licensed Asbestos Work

Low fibre release when disturbed = lower risk work
Conclusions

• The changes being introduced by CAR 2012 appear at first sight to be minor

• There will however need to be a clear understanding by those who manage building maintenance works as to the differences between the 3 categories of work which no exist

• The differentiation between Notifiable Non-Licensed work and the work which will not need notification will cause the greatest issues and there will need to be continued vigilance that the correct interpretations are being made

• Those involved in this management process will require appropriate refresher training
Conclusions

Most other provisions as in CAR 2006 will remain in place

- Prohibitions now moved to the REACH Regulations

- The duty to manage asbestos materials in buildings will remain to be a critical requirement particularly as the number of people dying from asbestos related diseases continues to rise year on year
  - There must be confidence that all ACMs have been located and their condition and associated risk assessed
  - The condition of these materials must be assessed at regular intervals and at least every 6-12 months even if they are unlikely to be disturbed
  - Information relating to the presence of these materials must be provided to all those who may disturb them during the course of their work whether directly employed or not
Conclusions

- Anyone whose work could expose them to ACMs must have received at least Asbestos Awareness training – this is a legally requirement

- If any employee undertakes work on ACMs they must have received the at least the relevant training for un-licensed work or licensed work as appropriate

- Training requirements apply to those who directly manage these processes
Conclusions

- How compliant are your processes?
- Does your Asbestos Management Plan really address what needs to done in the next 12 months to ensure at that no-one is exposed to airborne asbestos fibres?
- Are you maintaining ACMs in a safe condition?
- Are you controlling all asbestos removal and maintenance work in accordance with statutory guidance?
- When did you last have an independent review of your processes?
- How will you fair if the HSE comes knocking?
Questions

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