1988 No. 74

HEALTH AND SAFETY

Control of Asbestos at Work Regulations (Northern Ireland) 1988

Made	*8th March 1988*
Coming into operation . .	*25th April 1988*

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Schedule 1. Particulars to be included in a notification.

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The Department of Agriculture, the Department of Economic Development and the Department of the Environment acting jointly as the

Department concerned(**a**), in exercise of the powers conferred by Articles 17(1) to (5) and 55(2) of, and paragraphs 1(1) to (4), 2(2), 5(1), 7 to 10, 13, 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**b**) and of every other power enabling them in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to them to be appropriate, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Control of Asbestos at Work Regulations (Northern Ireland) 1988 and shall come into operation on 25th April 1988.

Interpretation

2.—(1) In these Regulations —

"action level" means one of the following cumulative exposures to asbestos over a continuous 12-week period when measured or calculated by an approved method, namely—

(*a*) where the exposure is to asbestos consisting of or containing any crocidolite or amosite, 48 fibre-hours per millilitre of air; or

(*b*) where the exposure is to asbestos consisting of or containing any other types of asbestos but not crocidolite or amosite, 120 fibre-hours per millilitre of air; or

(*c*) where both types of exposure are concerned, a proportionate number of fibre-hours per millilitre of air;

"adequate" means adequate having regard only to the nature and degree of exposure to asbestos;

"appointed doctor" means a registered medical practitioner who is for the time being appointed in writing by the Department for the purposes of regulation 16;

"approved" means approved for the time being in writing by the Department;

"asbestos" means any of the following minerals, that is to say, crocidolite, amosite, chrysotile, fibrous actinolite, fibrous anthophyllite, fibrous tremolite and any mixture containing any of those minerals;

"asbestos area" and "respirator zone" shall be construed in accordance with regulation 14;

"control limit" means one of the following concentrations of asbestos in the atmosphere when measured or calculated by an approved method, namely—

(*a*) for asbestos consisting of or containing any crocidolite or amosite—

(i) 0.2 fibres per millilitre of air averaged over any continuous period of 4 hours, or

(ii) 0.6 fibres per millilitre of air averaged over any continuous period of 10 minutes;

(**a**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**b**) S.I. 1978/1039 (N.I. 9)

(*b*) for asbestos consisting of or containing other types of asbestos but not crocidolite or amosite—

(i) 0.5 fibres per millilitre of air averaged over any continuous period of 4 hours, or

(ii) 1.5 fibres per millilitre of air averaged over any continuous period of ten minutes.

"the Department" means the Department of Economic Development;

"employment medical adviser" means an employment medical adviser appointed under Article 48(3) of the Health and Safety at Work (Northern Ireland) Order 1978; and

"medical examination" includes any laboratory tests and X-rays that the employment medical adviser or appointed doctor may require.

(2) For the purposes of these Regulations—

(*a*) any reference to an employee being exposed to asbestos shall be treated as a reference to the exposure of that employee to asbestos dust arising out of or in connection with any work with asbestos or with any product containing asbestos which is carried out by the employer; and

(*b*) in determining whether an employee is exposed to asbestos or whether the extent of such exposure exceeds the action level or any control limit, no account shall be taken of any respiratory protective equipment which, for the time being, is being worn by that employee.

Duties under these Regulations

3.—(1) Where any 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 who may be affected by the work activity, whether at work or not, except that the duties of the employer—

(*a*) under regulation 7 (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 16 (health records and medical surveillance) shall not extend to persons who are not his employees.

(2) 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.

(3) Nothing in these Regulations shall prejudice any requirement imposed by or under any statutory provision relating to public health or the protection of the environment.

Identification of the type of asbestos

4. An employer shall not carry out any work which exposes or is liable to expose any of his employees to asbestos unless either—

(*a*) before commencing that work, he has identified, by analysis or otherwise, the type of asbestos involved in the work; or

(*b*) he has assumed that the asbestos is crocidolite or amosite and for the purposes of these Regulations has treated it accordingly.

Assessment of work which exposes employees to asbestos

5.—(1) Subject to paragraph (3), an employer shall not carry out any work which exposes or is liable to expose any of his employees to asbestos unless he has made an adequate assessment of that exposure.

(2) Without prejudice to the generality of paragraph (1), that assessment shall—

(*a*) subject to regulation 4, 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; and

(*c*) set out the steps to be taken to prevent or reduce to the lowest level reasonably practicable that exposure.

(3) Where work which exposed or was liable to expose employees to asbestos had been commenced before the coming into operation of these Regulations or within 28 days after that date, it shall be sufficient compliance with paragraph (1) if the employer makes the assessment required by that paragraph within 28 days after the date of coming into operation of these Regulations.

(4) The assessment required by paragraph (1) shall be reviewed forthwith and a new assessment substituted when—

(*a*) there is reason to suspect that the existing assessment is no longer valid; or

(*b*) there is a significant change in the work to which the assessment relates.

Notification of work with asbestos

6.—(1) This regulation shall apply to any work in which an employee is or is liable to be exposed to asbestos unless—

(*a*) the extent of that exposure neither exceeds nor is liable to exceed the action level; or

(*b*) the employer is licensed under regulation 4 of the Asbestos (Licensing) Regulations (Northern Ireland) 1984(**a**) to carry out the work and is doing so in accordance with the terms and conditions of that licence or is exempted by regulation 3(2)(*b*) of those Regulations from those requirements.

(2) An employer shall not carry out any work to which this regulation applies for the first time unless he has notified the enforcing authority in writing of the particulars specified in Schedule 1 at least 28 days before commencing that work or before such shorter time as the enforcing authority may agree.

(3) Where an employer has notified work in accordance with paragraph (2) and there is a material change in that work which might affect the particulars so notified (including the cessation of the work), the employer shall forthwith notify the enforcing authority of that change.

(**a**) S.R. 1984 No. 205 to which there are amendments not relevant to these Regulations

(4) Where the work with asbestos was commenced before the date of coming into operation of these Regulations or within 56 days after that date, it shall be sufficient compliance with paragraph (2) if the employer either—

(*a*) notifies the enforcing authority in accordance with paragraph (2) within 28 days after the coming into operation of these Regulations; or

(*b*) had before the revocation of regulation 6 of the Asbestos Regulations (Northern Ireland) 1969(**a**), notified the enforcing authority in accordance with that regulation.

Information, instruction and training

7. Every employer shall ensure that adequate information, instruction and training is given to his employees—

(*a*) who are or are liable to be exposed to asbestos so that they are aware of the risks from asbestos and the precautions which should be observed;

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

Prevention or reduction of exposure to asbestos

8.—(1) Every employer shall—

(*a*) prevent the exposure of his employees to asbestos; or

(*b*) where it is not reasonably practicable to prevent such exposure, reduce to the lowest level reasonably practicable the exposure of his employees to asbestos by measures other than the use of respiratory protective equipment.

(2) Where, in pursuance of paragraph (1), it is not reasonably practicable to reduce the exposure of an employee to below both the control limits which apply to that exposure, then, in addition to taking the measures required by that paragraph, 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 to a concentration which is below those control limits.

(3) Respiratory protective equipment provided in pursuance of paragraph (2) shall be of an approved type or shall conform to an approved standard for the purposes of this regulation.

Use of control measures etc.

9.—(1) Every employer who provides any control measure, personal protective equipment or other thing or facility pursuant to these Regulations shall ensure so far as is reasonably practicable 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, personal protective equipment or other thing or facility provided pursuant to these Regulations and if he discovers any defect therein he shall report it forthwith to his employer.

(**a**) S.R. & O (N.I.) 1969 No. 337