

**Version No. 010**  
**Occupational Health and Safety (Asbestos)**  
**Regulations 2003**

**S.R. No. 16/2003**

Version incorporating amendments as at 28 April 2005

**TABLE OF PROVISIONS**

<i>Regulation</i>	<i>Page</i>
<b>PART 1—PRELIMINARY</b>	<b>1</b>
101. Objective	1
102. Authorising provisions	1
103. Commencement	1
104. Revocation	2
105. Definitions	2
106. Exemptions	6
106A. Exemption for chrysotile from regulations 311 and 312	9
106B. Exemption for chrysotile from regulations 307, 308, 309 and 310	11
107. <i>Revoked</i>	11
108. Notice required of certain matters determined by the Authority	11
109. Amendment to OHS (Hazardous Substances) Regulations 1999	12
<b>PART 2—GENERAL REQUIREMENTS</b>	<b>13</b>
201. Occupier's duty to ensure exposure standard is not exceeded	13
202. Employer's duty to ensure exposure standard is not exceeded	13
203. Duty of employer to independent contractor	13
204. Duty to provide information, instruction and training	14
205. Duty to consult health and safety representative	14
206. Analysis to be undertaken by approved analyst	15
207. Limited removal without licence permitted	15
<b>PART 3—PROHIBITIONS</b>	<b>16</b>
<b>Division 1—General</b>	<b>16</b>
301. General exclusions	16

<i>Regulation</i>	<i>Page</i>
<b>Division 2—Prohibitions under the Occupational Health and Safety Act 1985</b>	<b>17</b>
302. Prohibition on the removal of protective clothing	17
303. Prohibition on removal of asbestos	17
304. <i>Revoked</i>	18
305. Prohibitions on use of certain tools or instruments	18
<b>Division 3—Prohibitions under the Dangerous Goods Act 1985</b>	<b>19</b>
306. Prohibition on manufacture of asbestos	19
307. Prohibition on supply of asbestos	19
308. Prohibition on storage of asbestos	20
309. Prohibition on transport of asbestos	21
310. Prohibition on the sale of asbestos	21
311. Prohibition on the use of asbestos	22
312. Prohibition on the re-use, installation and replacement of asbestos-containing material	22
<b>PART 4—LICENSING</b>	<b>23</b>
<b>Division 1—Licences</b>	<b>23</b>
401. Licences under this Part	23
402. Application for Licence	23
403. Authority must confirm receipt of a licence application	24
404. Authority may issue, refuse or defer	24
405. If Authority defers the issue of a licence	24
406. Consideration of application for a licence	25
407. If Authority proposes to refuse to issue licence	26
408. Details on licence	27
409. Changes to information provided	27
410. Renewal of licence	27
411. Availability of copy for inspection	29
412. Terms and conditions	29
413. Variation to a term or condition of a licence	29
414. Inquiry for the purposes of suspension and cancellation	30
415. Matters to be considered when determining whether to suspend or cancel a licence	31
416. Suspension or cancellation of a licence	32
417. Surrender of licence	33
418. Review of decisions relating to licences	33
<b>Division 2—Transitional provisions</b>	<b>34</b>
419. Approvals to continue to have effect	34
420. Licence to be obtained by 30 November 2003	34
421. Determinations	34

<i>Regulation</i>	<i>Page</i>
<b>PART 5—ASBESTOS IN WORKPLACES (<i>IN SITU</i>)</b>	<b>36</b>
<b>Division 1—Occupier Duties</b>	<b>36</b>
501. Application of this Division	36
502. Occupier's duty to identify asbestos at the workplace	36
503. Identification of asbestos and inaccessible areas	37
504. Occupier's duty to undertake risk assessment	37
505. Occupier's duty to review and revise risk assessment	38
506. Record of results	38
507. Occupier's duty to keep record and provide copies and access	39
508. Occupier's duty on relinquishing management or control	39
509. <i>Revoked</i>	40
510. Occupier's general duty to undertake control of risk	40
511. Occupier's duty to undertake specific measures to control risk	40
512. Occupier's duty to ensure risk control measures are properly maintained	41
513. Atmospheric monitoring	41
<b>Division 2—Employer Duties</b>	<b>41</b>
514. Application of this Division	41
515. Employer to obtain copy of record of results from occupier	42
516. Employer's duty to assess risk having regard to activities undertaken by the employer in relation to the occupier's record of results	42
517. Employer's duty to notify occupier of risk	43
518. Employer's duty to identify asbestos in plant at the workplace	43
519. Identification of asbestos and inaccessible areas	44
520. Employer's duty to assess risk associated with presence of asbestos in plant over which the employer has management or control	44
521. Employer's duty to review and revise risk assessment	45
522. Record of results	45
523. Employer's duty to keep records and provide copies and access	46
524. <i>Revoked</i>	46
525. Employer's general duty to undertake control of risk	47
526. Employer's duty to undertake specific measures to control risk in plant	47
527. Employer's duty to ensure risk control measures are properly used, installed and maintained	48
528. Atmospheric monitoring	48

<i>Regulation</i>	<i>Page</i>
<b>PART 6—DEMOLITION (INCLUDING REFURBISHMENT) WHERE ASBESTOS IS PRESENT</b>	<b>49</b>
601. Application of Part	49
602. Occupier to review risk assessment	49
603. Identification of asbestos	49
604. Duty to ensure asbestos removed prior to demolition	50
605. Emergency situations	51
<b>PART 7—REMOVAL OF ASBESTOS FROM BUILDINGS, STRUCTURES, SHIPS AND PLANT BY LICENCE HOLDERS</b>	<b>53</b>
<b>Division 1—General</b>	<b>53</b>
701. Application of Part	53
702. Person not to carry out removal work unless licensed	53
703. Supervisors	53
704. Employer's duty to provide information to job applicants	54
705. Persons carrying out removal work to have appropriate training	54
706. Need for medical examinations and information	55
707. Licence holder's duty to keep results of medical examinations confidential	56
708. General duty to undertake control of risk	56
709. Duty to obtain risk assessment	56
710. Duty to prepare Control Plan	57
711. Duty to control airborne asbestos fibres	57
712. Duty to provide protective equipment to employees	58
713. Signs and barricades	58
714. Decontamination facilities	58
715. Duty with respect to risk control measures implemented	59
716. Licence holder's duty with respect to airborne asbestos fibre levels	59
717. Disposal of asbestos waste	60
718. Laundering of asbestos contaminated clothing	61
719. Duty to provide information, instruction and training	62
<b>Division 2—Specific duties which apply to the removal of friable asbestos</b>	<b>62</b>
720. Application of Division	62
721. Supervisor to be on site	62
722. Duty to undertake specific measures to control risk	62
723. Paraoccupational air monitoring	63
724. Requirements at end of removal work	63
725. Specific provisions dealing with the use of glove bags	64

<i>Regulation</i>	<i>Page</i>
<b>Division 3—Specific duties which apply to the removal of non-friable asbestos</b>	<b>64</b>
726. Application of Division	64
727. Supervisor to be accessible	64
<b>Division 4—Specific duties which apply to a person who commissioned removal work</b>	<b>64</b>
728. Application of Division	64
729. Employers in immediate and adjacent areas to be informed	65
730. When paraoccupational air monitoring is required	65
731. Requirements at end of removal work	66
732. Clearance Certificates	66
<b>Division 5—Notification Procedures</b>	<b>67</b>
733. Notification to Authority	67
734. Notification in an unexpected situation	67
735. Information to be provided to those in area	68
<b>Division 6—Employee Duties</b>	<b>68</b>
736. Employee duties	68
 <b>PART 8—ACTIVITIES INVOLVING ASBESTOS-CONTAINING PRODUCTS AND MATERIALS</b>	 <b>69</b>
801. Application of Part	69
802. Duty to identify activity under this Part	70
803. Uncertainty as to presence of asbestos	70
804. Duty to obtain occupier's or employer's record of results	70
805. Duty to undertake risk assessment	71
806. Generic risk assessments	72
807. Employer's duty to review and revise risk assessment	72
808. Duty to control airborne asbestos fibres	73
809. Duty to undertake control of risk	73
810. Duty to undertake specific measures to control risk	73
811. Employer's duty to ensure risk control measures are properly used, installed and maintained	74
812. Atmospheric monitoring	74
813. Area to be separate and identified	75
814. Area to be kept clean	75
815. Need for medical examinations	75
816. Employer's duty to keep results of medical examinations confidential	76
817. Removal of contaminated clothing and equipment from workplace	77
818. Disposal of asbestos waste	77
819. Laundering of asbestos contaminated clothing	78
820. Supervision of activities	79

<i>Regulation</i>	<i>Page</i>
821. Information to be provided about proposed removal work	79
822. Employer's duty to provide information to job applicants	79
823. Information, instruction and training	80
824. Employee duties	80
<hr/>	
<b>SCHEDULES</b>	<b>81</b>
SCHEDULE 1—Information to be Included in an Application for a Licence to Conduct Removal Work	81
SCHEDULE 1A—Categories of Asbestos-Containing Material Containing Chrysotile Asbestos and their Uses	83
SCHEDULE 2—Information Required to be Included in a Control Plan	85
SCHEDULE 3—Information Required to be Included in a Notification of Removal Work	86
SCHEDULE 4—Fees	87
<hr/> <hr/>	
<b>ENDNOTES</b>	<b>88</b>
1. General Information	88
2. Table of Amendments	89
3. Explanatory Details	90
INDEX	91

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**Version No. 010**  
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**S.R. No. 16/2003**

Version incorporating amendments as at 28 April 2005

**PART 1—PRELIMINARY**

**101. Objective**

The objective of these Regulations is to protect persons against the risk of asbestos-related disease resulting from exposure to airborne asbestos fibres.

**102. Authorising provisions**

- (1) This Part is made under section 59 of the **Occupational Health and Safety Act 1985** and under section 52 of the **Dangerous Goods Act 1985**.
- (2) Divisions 1 and 2 of Part 3 and Parts 2, 4, 5, 6, 7, 8 and the Schedules are made under section 59 of the **Occupational Health and Safety Act 1985**.
- (3) Division 3 of Part 3 is made under section 52 of the **Dangerous Goods Act 1985**.

**103. Commencement**

- (1) These Regulations, except regulation 301(2) and Division 3 of Part 3, come into operation on 1 February 2003.
- (2) Regulation 301(2) and Division 3 of Part 3 come into operation on 31 December 2003.

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#### **104. Revocation**

The Occupational Health and Safety (Asbestos) Regulations 1992<sup>1</sup> are **revoked**.

#### **105. Definitions**

In these Regulations—

**"approved analyst"** means an analyst approved by NATA to perform asbestos fibre counting or to identify asbestos in samples, and to issue findings as endorsed reports under the authority of a NATA accredited laboratory or by some other scheme as determined by the Authority;

**"asbestos"** means the fibrous form of the mineral silicates belonging to the serpentine and amphibole groups of rock-forming minerals and includes actinolite, amosite (brown asbestos), anthophyllite, crocidolite (blue asbestos), chrysotile (white asbestos), tremolite, or any material containing one or more of the mineral silicates belonging to the serpentine and amphibole groups;

**"asbestos-containing material"** means any material or object that contains asbestos, and in Parts 5, 6 and 7 is limited to asbestos-containing material that is fixed or installed;

**"Class A licence"** means a licence issued under Part 4 which allows the holder to remove friable asbestos-containing material and non-friable asbestos-containing material as specified in the licence;

**"Class B licence"** means a licence issued under Part 4 which allows the holder to remove non-friable asbestos-containing material as specified in the licence;

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**"Control Plan"** means a document which identifies the control measures which a licence holder will use to ensure employees and other persons are not at risk when removal work is being conducted;

**"exposure standard"** means 0.1 f/ml of air measured in a person's breathing zone and expressed as a time weighted average fibre concentration of asbestos calculated over an 8 hour working day and measured over a minimum period of 4 hours in accordance with the Membrane Filter Method or in accordance with a method as determined by the Authority;

**"friable"** means, when dry, may be crumbled, pulverised or reduced to powder by hand pressure, or as a result of a work process becomes such that it may be crumbled, pulverised or reduced to powder by hand pressure;

**"f/ml"** means fibres per millilitre;

**"glove bag"** means a single-use bag constructed from transparent, heavy duty polyethylene with built-in arms and access ports, and of a size not greater than 1 metre wide by 1.5 metres deep;

**"health and safety management system"** means that part of the overall management system which includes organisational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining the organisation's OHS policy;

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**"independent person"** means a person who is independent from the licence holder and from the person who commissioned the work and who has the knowledge and skills to undertake visual inspection or air monitoring;

**"JAS-ANZ"** means the Joint Accreditation System of Australia and New Zealand which accredits or approves bodies providing conformity certification based on internationally recognised Standards;

**"licence holder"**—

- (a) means the holder of a Class A licence or a Class B licence; and
- (b) is the employer or self-employed person for the purposes of the **Occupational Health and Safety Act 1985**;

**"Membrane Filter Method"** means the method for estimating airborne asbestos fibres in accordance with the "Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Dust" as published by the National Occupational Health and Safety Commission in 1988 or as amended from time to time;

**"NATA"** means the National Association of Testing Authorities (Australia);

**"OHS policy"** means the statement by an organisation of its commitment, intentions and principles in relation to its overall occupational health and safety performance which provides a framework for action and for the setting of its occupational health and safety objectives and targets;

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**"paraoccupational air monitoring"** means air sampling to estimate the amount of airborne asbestos fibres in the occupational environment, taken at fixed locations, usually between 1 and 2 metres above floor level, in accordance with the Membrane Filter Method or another method as determined by the Authority;

**"person who commissioned the work"** means the occupier or employer who arranged for removal work to be undertaken;

**"removal work"** means the removal of asbestos-containing material which is fixed or installed to a building, structure, ship or plant so that it is no longer fixed or installed to that building, structure, ship or plant;

**"risk"** means the likelihood of illness or disease arising from exposure to airborne asbestos fibres;

**"structure"** means any construction, including a bridge, tunnel, shaft, dam, pipe, or access pit, or any part thereof, other than a building or ship, that is a workplace or becomes a workplace due to works being carried out;

**"supervisor"** means a person who is—

- (a) appointed by a licence holder to oversee removal work; and
- (b) specified on a licence issued under Part 4;

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**"type of asbestos-containing material"** means a description of asbestos-containing material or product.

**Example**

Asbestos containing cement sheeting, cement pipes, vinyl tiles, sprayed insulation, telecommunications pits and pipes, pipe lagging, millboard and gaskets.

**106. Exemptions**

- (1) The Authority may, of its own volition or on the written application of any person, exempt any person or class of persons from any provision of these Regulations, except a requirement to hold a licence.

Note: An exemption may be sought for or granted from any prohibition contained in a provision of these Regulations.

- (2) An application for an exemption must—
- (a) state the provision or provisions from which exemption is sought; and
  - (b) explain the method by which the applicant intends to ensure that there is a level of health and safety of persons that is at least equivalent to that which would be achieved by observance of the relevant provision or provisions.
- (3) The Authority may—
- (a) grant an exemption in whole or in part; or
  - (b) refuse to grant an exemption.

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- (4) The Authority may grant an exemption to a person or a class of persons if the Authority is satisfied that—
- (a) the person or class of persons is capable of achieving a level of health and safety that is in compliance with the **Occupational Health and Safety Act 1985** and that is at least equivalent to the level that would be achieved if the provision that was the subject of the exemption was complied with; or
  - (b) the provision which is the subject of the exemption is an administrative requirement under these Regulations that is—
    - (i) not directly associated with a risk control measure; and
    - (ii) inappropriate or unnecessary in the circumstances.
- (5) The Authority may attach terms and conditions to an exemption, including terms and conditions in relation to—
- (a) the commencement date and duration of the exemption;
  - (b) control measures to be used or implemented;
  - (c) any—
    - (i) atmospheric monitoring; or
    - (ii) medical examinations; or
    - (iii) information, instruction and training; or
    - (iv) recording or keeping of health and safety information;
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*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 1—Preliminary

r. 106

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- (d) a requirement that the person or class of persons exempted give notice of the exemption and of the terms and conditions of the exemption to any specified person or class of persons who may be affected.
- (6) If the Authority refuses to grant an exemption that has been applied for, the Authority must notify the applicant of the reasons for the refusal in writing.
- (7) The Authority may vary the terms and conditions of an exemption or revoke an exemption at any time by a written notice to the person or class of persons to whom the exemption applies.
- (8) The notice must include the Authority's reasons for varying the terms and conditions of the exemption or revoking the exemption.
- (9) A variation of the terms and conditions of an exemption or the revocation of an exemption takes effect—
- (a) on the date on which the person to whom the exemption applies is given written notice of the variation or revocation; or
  - (b) on the date specified in the written notice, which must be a date later than the date on which the person to whom the exemption applies is given the notice.
- (10) If the Authority grants an exemption under this regulation to a class of persons, the Authority must cause a notice of the exemption, including any terms and conditions attached to the exemption, to be published in the Government Gazette.
- (11) The Authority may charge a fee calculated at the rate specified in Schedule 4 for the consideration of an application for exemption.
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**106A. Exemption for chrysotile from regulations 311 and 312**

Reg. 106A  
inserted by  
S.R. No.  
157/2003  
reg. 5.

- (1) A person is not required to comply with regulation 311 or 312 until the relevant date specified in Schedule 1A if—
  - (a) the asbestos-containing material contains chrysotile asbestos (but not amphibole asbestos) and is of a type, and for a use, that falls within a category specified in Schedule 1A; and
  - (b) the person has given a notice to the Authority in accordance with sub-regulation (2); and
  - (c) the person receives from the Authority a confirmation of receipt of the notice.
- (2) A notice referred to in sub-regulation (1)(b) must state—
  - (a) the person's name and any registered business name; and
  - (b) the person's contact details; and
  - (c) the category specified in Schedule 1A within which the chrysotile asbestos falls; and
  - (d) the address of the premises where the person will use, install or re-use chrysotile-containing material or will replace any material with chrysotile-containing material; and
  - (e) the quantity of chrysotile-containing material; and
  - (f) if different to paragraph (b), the contact details of the person immediately involved in the use, installation or re-use of chrysotile-containing material or in the replacement of

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 1—Preliminary

**r. 106A**

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- any material with chrysotile-containing material; and
- (g) the date of the notice; and
  - (h) the details of any consultation that occurred with the health and safety representative of a relevant designated work group in relation to the proposed use, installation or re-use of chrysotile-containing material or replacement of any material with chrysotile-containing material; and
  - (i) the name and contact details of persons who will supply, store, transport or sell the chrysotile-containing material.
- (3) Within 30 days after receiving a notice under sub-regulation (1)(b), the Authority must—
- (a) give the person who gave the notice a receipt in writing that states that the Authority confirms receipt of the notice; or
  - (b) in writing inform the person who gave the notice—
    - (i) that the Authority defers confirming receipt of the notice under paragraph (a) because the notice contains insufficient information; and
    - (ii) what further information is required by the Authority.
- (4) The person who receives a confirmation of receipt under sub-regulation (3)(a) must provide a copy of the confirmation of receipt to any other person who supplies, stores transports or sells chrysotile-containing material on behalf of the first-mentioned person.
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**106B. Exemption for chrysotile from regulations 307, 308, 309 and 310**

Reg. 106B  
inserted by  
S.R. No.  
157/2003  
reg. 5.

A person who is given a copy of a confirmation of receipt under regulation 106A(4) is not required to comply with regulation 307, 308, 309 or 310 when supplying, storing, transporting or selling the chrysotile-containing material specified in the confirmation of receipt.

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Reg. 107  
revoked by  
S.R. No.  
16/2003  
reg. 107(3).

**108. Notice required of certain matters determined by the Authority**

The Authority must place a notice in the Government Gazette specifying the details of a determination made for the purpose of—

- (a) the definition of "approved analyst"; or
- (b) the definition of "exposure standard"; or
- (c) the definition of "paraoccupational air monitoring"; or
- (ca) regulation 301(3)(b)(i); or
- (d) regulation 402(2); or
- (e) regulation 402(3)(b); or
- (f) regulation 410(1); or
- (g) regulation 801(2)(l).

Reg. 108(ca)  
inserted by  
S.R. No.  
157/2003  
reg. 6.

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 1—Preliminary

r. 109

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**109. Amendment to OHS (Hazardous Substances)  
Regulations 1999**

In regulation 104(2)(c) of the Occupational Health and Safety (Hazardous Substances) Regulations 1999<sup>2</sup>, for "Occupational Health and Safety (Asbestos) Regulations 1992", **substitute** "Occupational Health and Safety (Asbestos) Regulations 2003".

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**PART 2—GENERAL REQUIREMENTS**

**201. Occupier's duty to ensure exposure standard is not exceeded**

- (1) Despite sub-regulation (2), an occupier of a workplace must eliminate, or where this is not practicable, must reduce, so far as is practicable, the exposure of persons at the workplace to airborne asbestos fibres.
- (2) An occupier of a workplace must ensure that a person at the workplace is not exposed to an atmospheric concentration of asbestos above the exposure standard.

**202. Employer's duty to ensure exposure standard is not exceeded**

- (1) Despite sub-regulation (2), an employer or self-employed person must eliminate, or where this is not practicable, must reduce, so far as is practicable, the exposure of persons at the workplace to airborne asbestos fibres, arising from the conduct of the undertaking of the employer or self-employed person.
- (2) An employer or self-employed person must ensure that a person is not exposed to an atmospheric concentration of asbestos arising from the conduct of the undertaking of the employer or self-employed person above the exposure standard.

**203. Duty of employer to independent contractor**

- (1) For the purposes of the duties of an employer under these Regulations, "**employee**" has the same meaning as it has in section 21(3)(a) of the **Occupational Health and Safety Act 1985**.

Note: Section 21(3)(a) of the **Occupational Health and Safety Act 1985** states that an "**employee**" includes an independent contractor engaged by an employer

and any employees engaged by an employer and any employees of the independent contractor'.

- (2) The duties of an employer under these Regulations extend to an independent contractor engaged by the employer and employees of the independent contractor, in relation to matters over which the employer—
- (a) has control; or
  - (b) would have had control but for any agreement between the employer and the independent contractor to the contrary.

**204. Duty to provide information, instruction and training**

An employer must provide employees with such information, instruction and training as is necessary to enable the employees to perform their work in a manner that is safe and without risks to their health in relation to—

- (a) the nature of the hazard and the risk associated with exposure to asbestos; and
- (b) the need for, and proper use of, measures to control the risk.

**205. Duty to consult health and safety representative**

An employer must consult, if practicable, with the health and safety representative of a relevant designated work group, if the employer is required to undertake, in accordance with these Regulations—

- (a) identification of asbestos; or
- (b) assessment of risk, including the review and revision of any risk assessment; or

(c) control of risk—

that may affect the health and safety of any member of that group.

**206. Analysis to be undertaken by approved analyst**

If an analysis of any sample is required under these Regulations, the analysis must be undertaken by an approved analyst.

**207. Limited removal without licence permitted**

- (1) An employer or self-employed person may conduct a limited amount of removal work if—
  - (a) the asbestos-containing material is non-friable; and
  - (b) the area to be removed is less than 10 square metres in total; and
  - (c) removal is not undertaken for more than 1 hour in any period of 7 days.
- (2) An employer or self-employed person undertaking removal work specified in sub-regulation (1) must comply with Part 8.

- Note:
1. This regulation allows small scale removal work to be undertaken without a licence being issued under these Regulations. An employer wishing to remove asbestos not specified in this regulation must obtain a licence in accordance with Part 4.
  2. The Environment Protection Authority regulates the transportation and disposal of asbestos waste of an industrial origin. Owners of vehicles that transport any amount of industrial sourced waste asbestos must hold a permit (unless the vehicle is exempt) to transport prescribed waste under the **Environment Protection Act 1970**. The permit will stipulate necessary controls for the safe handling and safe disposal of waste asbestos.

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**PART 3—PROHIBITIONS**

**Division 1—General**

**301. General exclusions**

Reg. 301(1)  
revoked by  
S.R. No.  
16/2003  
reg. 304(2).

\* \* \* \* \*

(2) The prohibitions specified in regulations 307, 308, 309, 311 and 312(3) do not apply for the purpose of—

- (a) scientific analysis or research;
- (b) sampling and identification;
- (c) retention of asbestos samples for demonstration, education or practical training purposes.

Note: The activities specified in regulations 301(1)(a), 301(1)(b), 301(2)(a) and 301(2)(b), which are excluded from certain prohibitions, are regulated by Part 8.

Reg. 301(3)  
inserted by  
S.R. No.  
157/2003  
reg. 7.

(3) The prohibitions specified in regulations 307 to 312(1) and (3) do not apply to—

- (a) soil from which asbestos-containing material has been removed and where a visual inspection of that soil caused by the person proposing to supply, store, transport, sell, use, re-use or install the soil indicates that there is no remaining asbestos-containing material in the soil; or
- (b) construction materials (including concrete and bricks)—
  - (i) of which less than a percentage determined by the Authority is asbestos-containing material measured

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using a method determined by the Authority; and

- (ii) that are intended to be re-used as base materials in construction work (such as roads and foundations).

- (4) Re-used construction materials referred to in sub-regulation (3)(b) must be enclosed or sealed within material to prevent the release of airborne asbestos fibres.

Reg. 301(4)  
inserted by  
S.R. No.  
157/2003  
reg. 7.

## **Division 2—Prohibitions under the Occupational Health and Safety Act 1985**

### **302. Prohibition on the removal of protective clothing**

An employer or self-employed person must ensure that protective clothing contaminated with asbestos is not removed from a workplace, unless the clothing is—

- (a) identified to indicate the presence of asbestos; and
- (b) contained so as to eliminate the release of airborne asbestos fibres; and
- (c) either—
  - (i) disposed of as asbestos waste in accordance with regulation 818; or
  - (ii) being sent to be laundered in accordance with regulation 819.

### **303. Prohibition on removal of asbestos**

- (1) An occupier, employer or self-employed person must ensure that fixed or installed asbestos or asbestos-containing material is not removed from any workplace unless—

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 3—Prohibitions

r. 305

- (a) the person removing the asbestos or asbestos-containing material is licensed under Part 4; or
  - (b) the person removing the material is employed by a person licensed under Part 4; or
  - (c) the removal is permitted under regulation 207.
- (2) This prohibition does not apply for the purpose of sampling and identification.

\* \* \* \* \*

Reg. 304  
revoked by  
S.R. No.  
16/2003  
reg. 304(2).

**305. Prohibitions on use of certain tools or instruments**

- (1) An employer or self-employed person must not use or cause to be used a brush, high pressure water jet, power tool or other similar instrument on asbestos-containing material except in areas controlled.
- (2) The use of a tool or instrument specified in sub-regulation (1) must be controlled to ensure a person is not likely to be exposed to more than half the exposure standard by—
  - (a) enclosure; or
  - (b) engineering controls; or
  - (c) a combination of these methods.
- (3) An employer or self-employed person must not rely on respiratory protection devices to ensure half the exposure standard is not exceeded.
- (4) Sub-regulations (1) to (3) do not apply to the removal of friable asbestos-containing material undertaken within an enclosed removal area in accordance with Part 7.

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- (5) An employer or self-employed person must not use or cause to be used compressed air or other gases—
- (a) on asbestos-containing material except in areas enclosed and controlled; or
  - (b) within 6 metres of an activity involving asbestos-containing material unless the risk associated with the use of that air or gas is controlled.
- (6) An employer or self-employed person must not rely on respiratory protection devices to control a risk under sub-regulation (5)(b).

**Division 3—Prohibitions under the Dangerous Goods Act 1985**

**306. Prohibition on manufacture of asbestos**

A person must not manufacture asbestos-containing material.

**307. Prohibition on supply of asbestos**

- (1) Subject to sub-regulation (2), a person must not supply asbestos or asbestos-containing material to any person.
- (2) This prohibition does not apply to—
  - (a) the supply of asbestos or asbestos-containing material fixed or installed in a building, structure, ship, plant, aircraft or vehicle at the time the prohibition comes into operation;
  - (b) the supply of brake shoes lined with asbestos-containing material for the purpose of re-lining the brake shoes with non-asbestos-containing material.
- (3) Sub-regulation (2)(b) expires on 1 February 2008.

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**308. Prohibition on storage of asbestos**

- (1) Subject to sub-regulation (2), a person must not store asbestos or asbestos-containing material.
  - (2) This prohibition does not apply to—
    - (a) the storage of asbestos or asbestos-containing material if the asbestos or asbestos-containing material is waste and the waste is—
      - (i) being stored until it is disposed of; and
      - (ii) stored securely and identified to indicate the presence of asbestos; and
      - (iii) contained so as to eliminate the release of airborne asbestos fibres; and
      - (iv) disposed of as soon as is practicable;
    - (b) asbestos or asbestos-containing material that is fixed or installed in a building, structure, ship, plant, aircraft or vehicle at the time the prohibition comes into operation;
    - (c) the storage of brake shoes lined with asbestos-containing material if the brake shoes are—
      - (i) being stored for the purpose of disposal of the asbestos-containing material or awaiting supply in accordance with regulation 307(2)(a) or transport in accordance with regulation 309(2)(c); and
      - (ii) stored securely and identified to indicate the presence of asbestos; and
      - (iii) contained so as to eliminate the release of airborne asbestos fibres.
  - (3) Sub-regulation 2(c) expires on 1 February 2008.
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**309. Prohibition on transport of asbestos**

(1) Subject to sub-regulation (2), a person must not transport asbestos or asbestos-containing material.

(2) This prohibition does not apply to—

(a) the transport of asbestos or asbestos-containing material for the purpose of disposal or laundering;

Note: The Environment Protection Authority controls the transportation of industrial-sourced asbestos waste. Owners of vehicles that transport industrial-sourced waste asbestos must hold a waste transport permit, unless the vehicle is exempt. The permit will stipulate necessary controls for the safe handling and disposal of waste asbestos.

(b) the transport of asbestos or asbestos-containing material that is fixed or installed in a building, structure, vehicle, aircraft, ship or plant at the time the prohibition comes into operation;

(c) the transport of brake shoes lined with asbestos-containing material for the purpose of re-lining with non-asbestos-containing material.

(3) Sub-regulation (2)(c) expires on 1 February 2008.

**310. Prohibition on the sale of asbestos**

(1) Subject to sub-regulation (2), a person must not sell asbestos or asbestos-containing material.

(2) This prohibition does not apply to—

(a) the sale of asbestos or asbestos-containing material fixed or installed in a building, structure, ship, plant, aircraft or vehicle at the time the prohibition comes into operation;

(b) the sale of brake shoes lined with asbestos-containing material for the purpose of re-lining the brake shoes with non-asbestos-containing material.

(3) Sub-regulation (2)(b) expires on 1 February 2008.

**311. Prohibition on the use of asbestos**

- (1) A person must not use asbestos or asbestos-containing material.
- (2) This prohibition does not apply to asbestos or asbestos-containing material fixed or installed at the time the prohibition comes into operation.

Note: 1. When asbestos-containing material needs replacing, regulation 312 prohibits replacement with an asbestos-containing material.

2. This provision has the effect of prohibiting the use of all forms of asbestos from 31 December 2003, whereas regulation 304 carries over an existing prohibition until that time.

**312. Prohibition on the re-use, installation and replacement of asbestos-containing material**

- (1) A person must not install asbestos-containing material into any building, structure, ship, vehicle, aircraft or plant.
- (2) A person must not replace any part of a building, structure, ship, vehicle, aircraft or plant with an asbestos-containing material.
- (3) A person must not re-use any asbestos-containing material.

Note: When fixed or installed asbestos-containing material needs to be replaced, a non-asbestos containing material alternative must be used.

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**PART 4—LICENSING**

**Division 1—Licences**

**401. Licences under this Part**

- (1) A licence under this Part may only be used for removal work as specified in the licence.
- (2) A licence under this Part does not extend to the transport of asbestos waste.

Note: The transport of industrial-sourced asbestos waste is licensed by the Environment Protection Authority.

**402. Application for Licence**

- (1) An employer or self-employed person may apply for—
  - (a) a Class A licence; or
  - (b) a Class B licence.
- (2) An application for a licence must be made to the Authority in the form determined by the Authority and must include—
  - (a) the class of licence being applied for; and
  - (b) the specific types of asbestos-containing material, if relevant, which will be removed under the licence; and
  - (c) the information specified in Schedule 1.
- (3) An application for a Class A licence must include evidence of current certification for a health and safety management system that is—
  - (a) associated with asbestos removal work; and
  - (b) accredited or approved by JAS-ANZ or as determined by the Authority.

- (4) If an employer holds current certification of a quality management system as at 1 February 2003, the employer does not need to comply with sub-regulation (3) until that certification expires.

Note: When certification for a quality management system expires under sub-regulation (4), an employer is expected to obtain certification in accordance with sub-regulation (3) and provide details to the Authority.

**403. Authority must confirm receipt of a licence application**

Within 14 days after receiving an application for a licence, the Authority must advise the applicant in writing that the application has been received.

**404. Authority may issue, refuse or defer**

- (1) Following the review of an application for a licence, the Authority may—
- (a) issue a Class A licence or a Class B licence;  
or
  - (b) refuse to issue a licence; or
  - (c) defer the issuing of a licence if the applicant has not provided sufficient information.
- (2) Subject to regulations 405, 406 and 407, within 60 days after receiving an application for a licence, the Authority must give the applicant a written notice stating the Authority's intention to issue or refuse to issue a licence.
- (3) A licence expires 3 years after the day on which it is issued.

**405. If Authority defers the issue of a licence**

- (1) If the Authority defers the issuing of a licence, within 30 days of making the decision, the Authority must request the applicant in writing to provide additional information in relation to any matter listed in regulations 402(2) and 406(1).

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- (2) If the Authority has requested further information in relation to an application for a licence, the applicant must provide the information within 30 days of receiving the request or the application lapses.
  - (3) Following receipt of any further information, the Authority must make a decision within 30 days following receipt of that information.
  - (4) Following reconsideration of an application having regard to any further information received, if the Authority decides to refuse the issue of a licence, the Authority must give the applicant written notice of that decision within 30 days of making the decision and must specify the reasons for that decision.

**406. Consideration of application for a licence**

- (1) Before issuing a licence under this Part the Authority must be satisfied that—
  - (a) the applicant has provided the information specified in regulation 402(2); and
  - (b) the fee specified in Schedule 4 has been paid; and
  - (c) the information provided indicates that—
    - (i) the supervisor or supervisors nominated in the application are appropriately trained and experienced; and
    - (ii) in relation to an application for a Class A licence, the applicant has current certification for a health and safety management system.

Note: Regulation 402(4) contains interim arrangements in relation to certification.

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- (2) In determining whether to issue a licence, the Authority may have regard to—
- (a) the health and safety performance record of the applicant associated with the removal of asbestos; and
  - (b) whether any matter specified in paragraphs (b) to (g) of regulation 415 has occurred; and
  - (c) whether the applicant has previously had a licence suspended or cancelled by the Authority under these Regulations or an approval suspended or cancelled by the Authority under the Occupational Health and Safety (Asbestos) Regulations 1992, as in force immediately before 1 February 2003; and
  - (d) whether the applicant has provided false or misleading information in the application; and
  - (e) whether, in the Authority’s opinion, the applicant has the ability to conduct removal work safely and competently.
- (3) The Authority or an inspector may attend a workplace of the applicant to review systems of work which will be implemented by the applicant in the conduct of removal work.

**407. If Authority proposes to refuse to issue licence**

If the Authority proposes to refuse to issue a licence, the Authority must, within 30 days of making the decision—

- (a) inform the applicant by written notice; and
- (b) give the reasons for the proposal to refuse; and

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- (c) invite the applicant or any affected person to be heard by the Authority or make a submission in relation to the proposal.

**408. Details on licence**

A licence issued under this Part must specify—

- (a) the class of licence; and
- (b) the specific types of asbestos-containing material, if relevant, which can be removed under the licence; and
- (c) the licence holder; and
- (d) the name of a supervisor or supervisors; and
- (e) any terms and conditions to which the licence is subject; and
- (f) the date from which the licence is effective; and
- (g) the date the licence expires.

**409. Changes to information provided**

- (1) If any changes occur to the information provided in accordance with regulation 402, the licence holder must advise the Authority in writing of those changes as soon as is reasonably possible.
- (2) The Authority may amend the licence if it considers it necessary as a result of information received under sub-regulation (1) and must advise the licence holder of that change.

**410. Renewal of licence**

- (1) A person may apply for the renewal of a licence in the form determined by the Authority at least 60 days before the expiration of the current licence.

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 4—Licensing

r. 410

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- (2) A renewal application must include—
- (a) any information relevant to the renewal; and
  - (b) any details which are different to the details that were originally submitted with the initial application for the licence; and
  - (c) the fee specified in Schedule 4.
- (3) The Authority may—
- (a) renew the licence; or
  - (b) refuse to renew the licence.
- (4) If the Authority proposes to refuse to renew the licence, the Authority must, within 30 days of making the decision—
- (a) inform the applicant by written notice; and
  - (b) give the reasons for the proposal to refuse; and
  - (c) invite the applicant or any affected person to be heard by the Authority or make a submission in relation to the proposal.
- (5) Following reconsideration of an application having regard to any further information provided under sub-regulation (4), if the Authority decides to refuse to renew a licence, the Authority must—
- (a) give the applicant written notice of that decision within 30 days after the decision was made; and
  - (b) specify the reasons for that decision.

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**411. Availability of copy for inspection**

A licence holder must ensure that a copy of the licence—

- (a) is kept at all places where asbestos removal is taking place under the management and control of the licence holder; and
- (b) is made available on request to an inspector.

**412. Terms and conditions**

- (1) In issuing or renewing a licence under this Part, the Authority may impose such terms and conditions as it considers necessary for the purposes of these Regulations.
- (2) Despite the generality of sub-regulation (1), the terms and conditions of a licence must state that only a person specified on a licence as being a supervisor may supervise any removal work undertaken by the licence holder.
- (3) The licence holder must comply with the terms and conditions attached to the licence.

**413. Variation to a term or condition of a licence**

- (1) The Authority may vary a term or condition of a licence during the period of operation of the licence.
- (2) If the Authority proposes to vary a term or condition of a licence, the Authority must, within 30 days of making the decision—
  - (a) inform the applicant by written notice; and
  - (b) give reasons for the proposal to vary; and
  - (c) invite the applicant or any affected person to be heard by the Authority or make a submission in relation to the proposal.

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- (3) Following reconsideration of an application having regard to any further information provided under sub-regulation (2), if the Authority decides to vary a term or condition of the licence, the Authority must—
- (a) give the applicant written notice of that decision within 30 days after the decision was made; and
  - (b) specify the reasons for that decision.

**414. Inquiry for the purposes of suspension and cancellation**

- (1) The Authority may, of its own volition or after receiving a complaint, conduct an inquiry to determine whether a licence should be suspended or cancelled.
  - (2) The Authority must give the licence holder written notice of an inquiry.
  - (3) The notice must—
    - (a) state the subject of the inquiry and the reasons for conducting it; and
    - (b) invite the licence holder to attend the inquiry or to make a submission in relation to the inquiry; and
    - (c) specify a period of not less than 14 days within which the licence holder may accept the invitation to attend the inquiry or make a submission.
  - (4) The Authority must consider any submissions made by the licence holder.
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**415. Matters to be considered when determining whether to suspend or cancel a licence**

The Authority may have regard to the following matters when determining whether to suspend or cancel a licence—

- (a) the nature of any complaint received;
- (b) if, during the term of the licence, the licence holder has been convicted or found guilty of contravening Part 3 of the **Occupational Health and Safety Act 1985** where the work practices in question were associated with the removal of asbestos;
- (c) if, during the term of the licence, the licence holder has been convicted or found guilty of contravening or failing to comply with a provision of regulations made under the **Occupational Health and Safety Act 1985** where the work practices in question were associated with the removal of asbestos;
- (d) if, during the term of the licence, the licence holder has been issued with three or more prohibition or improvement notices under the **Occupational Health and Safety Act 1985** where the work practices in question were associated with the removal of asbestos;
- (e) if, during the term of the licence, the licence holder has not complied with any condition of the licence or with these Regulations;
- (f) if, during the term of a Class A licence, the licence holder has failed to maintain certification for a health and safety management system associated with asbestos removal work;

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- (g) the licence was obtained, whether initially or on renewal, on the basis of false or misleading information or a failure to disclose particular information;
  - (h) the licence holder ceases to carry on business, becomes insolvent or has been declared a bankrupt within the meaning of the Bankruptcy Act 1966 of the Commonwealth;
  - (i) any other matter which the Authority considers is relevant.

**416. Suspension or cancellation of a licence**

- (1) If the Authority is satisfied that there is proper cause for suspending or cancelling a licence, the Authority must give the licence holder a written notice stating that the Authority has decided to suspend or cancel the licence.
  - (2) The notice must—
    - (a) state the decision; and
    - (b) state the reasons for the decision; and
    - (c) invite the licence holder to be heard by the Authority or make a submission in relation to the decision; and
    - (d) specify a period of not less than 14 days within which the licence holder may be heard by the Authority or make a submission to the Authority.
  - (3) Following reconsideration of whether to suspend or cancel a licence in accordance with this regulation, if the Authority decides to suspend or cancel a licence, the Authority must give the licence holder a written notice—
    - (a) stating that the licence will be suspended or cancelled; and
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- (b) stating the reasons for that decision; and
  - (c) specifying the period of suspension and the date on which the suspension or cancellation is to take effect.
- (4) In specifying the date that the suspension or cancellation is to take effect, unless there exists an immediate risk to health or safety, the Authority must not specify a date that is less than 30 days after the licence holder is given the notice.

**417. Surrender of licence**

If the Authority suspends or cancels a licence under regulation 416, the licence holder must, once the suspension or cancellation takes effect, surrender the licence to an inspector or the Authority on demand.

**418. Review of decisions relating to licences**

- (1) A person who may be affected by a final decision of the Authority in relation to—
- (a) a refusal to issue a licence; or
  - (b) a refusal to renew a licence; or
  - (c) a variation to a licence; or
  - (d) a particular term or condition of a licence; or
  - (e) a suspension or cancellation of a licence—
- may apply to the Victorian Civil and Administrative Tribunal for a review of a decision of the Authority within 30 days of receiving notification of the decision by the Authority.
- (2) If a person applies for a review of a decision within the specified 30 days, the decision is stayed pending the determination of the application for review.

- (3) In this regulation, the expression "**any person who may be affected**" has the same meaning and effect as in section 59(6) of the **Occupational Health and Safety Act 1985**.

#### **Division 2—Transitional provisions**

##### **419. Approvals to continue to have effect**

- (1) If, on 1 February 2003, a person holds an approval under regulation 36 of the Occupational Health and Safety (Asbestos) Regulations 1992, as in force immediately before 1 February 2003, to operate as an asbestos removalist, that person may continue to operate as an asbestos removalist in accordance with any conditions attached to that approval, until 30 November 2003.
- (2) A person who continues to operate as an asbestos removalist in accordance with sub-regulation (1), must comply with these Regulations as if the approval was a licence issued under this Part.

##### **420. Licence to be obtained by 30 November 2003**

A person to whom regulation 419 applies must—

- (a) apply for a licence in accordance with this Part; and
- (b) be the holder of a licence under this Part by 30 November 2003—

in order to continue to conduct removal work.

##### **421. Determinations**

- (1) A person to whom a determination has been granted by the Authority under regulation 11(2)(d)(ii) of the Occupational Health and Safety (Asbestos) Regulations 1992, as in force immediately before 1 February 2003, may continue to operate in accordance with that determination until 30 November 2003.

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 4—Licensing

r. 421

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- (2) A person to whom sub-regulation (1) applies must—
- (a) apply for a licence in accordance with this Part; and
  - (b) be the holder of a licence under this Part by 30 November 2003—
- in order to continue to conduct removal work.
- (3) This regulation does not apply in the case of a person removing non-friable asbestos or asbestos-containing material of an amount permitted under regulation 207.
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**PART 5—ASBESTOS IN WORKPLACES (*IN SITU*)**

**Division 1—Occupier Duties**

**501. Application of this Division**

- (1) The duties of an occupier under this Division apply to workplaces where asbestos is fixed or installed in a building, structure, ship, or plant over which the occupier has management or control.

Note: "Occupier" is defined in the **Occupational Health and Safety Act 1985** as "in relation to a workplace, means a person who has the management or control of the workplace".

"plant over which the occupier has management or control" would include that plant which generally forms part of the structure; for example, a lift, boiler, air-conditioning plant or plant room.

- (2) The duties of an occupier under this Division do not apply to a domestic premises used solely for domestic purposes, but which becomes a workplace due to works being carried out by an employer or self-employed person engaged by the occupier.

Note: If the domestic premises becomes a workplace due to works being carried out, duties under Part 6, 7 or 8 may apply.

**502. Occupier's duty to identify asbestos at the workplace**

- (1) An occupier of a workplace must determine, so far as is practicable, whether asbestos is present in the workplace.
- (2) Having determined that asbestos is present, an occupier must identify—
- (a) the type of asbestos-containing material;
  - (b) the location of asbestos-containing material;

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- (c) whether the asbestos-containing material is friable or non-friable;
  - (d) the condition of the asbestos-containing material.
- (3) If an occupier has determined that there is asbestos in the workplace, the occupier must ensure—
- (a) that the presence and location of asbestos is clearly identified; and
  - (b) where practicable, the identification is by labelling.

**503. Identification of asbestos and inaccessible areas**

If the occupier of a workplace is uncertain as to whether there is asbestos present, or there are inaccessible areas that are likely to contain asbestos, the occupier must—

- (a) deem that asbestos is present; or
- (b) arrange for an analysis of a sample to be undertaken by an approved analyst.

**504. Occupier's duty to undertake risk assessment**

An occupier of a workplace must assess the risk associated with the presence of asbestos at the workplace having regard to—

- (a) the factors identified under regulation 502;
- (b) whether the asbestos-containing material is liable to further damage or deterioration;
- (c) whether there are any inaccessible areas that are likely to contain asbestos;

- (d) to the extent possible, whether the nature or location of any work likely to be carried out in the workplace is likely to cause a disturbance of the asbestos-containing material.

**505. Occupier's duty to review and revise risk assessment**

- (1) An occupier of a workplace must ensure that a risk assessment under regulation 504 is reviewed and, where necessary, revised, or that another assessment is carried out, if—
  - (a) there is a change in the condition of the asbestos-containing material; or
  - (b) asbestos-containing material has been removed, enclosed or sealed; or
  - (c) there is evidence to indicate that the risk assessment no longer adequately assesses the risk associated with the presence of asbestos at the workplace.
- (2) Despite sub-regulation (1), an occupier must ensure that a risk assessment under regulation 504 is reviewed at intervals not exceeding 5 years.

**506. Record of results**

- (1) An occupier of a workplace must record the results of an identification and any risk assessment conducted under these Regulations.
- (2) The record of results must contain—
  - (a) information in relation to the factors required to be identified;
  - (b) details of inaccessible areas that are likely to contain asbestos;

- (c) the results of all risk assessments, including any reviewed or revised assessment;
- (d) the dates when the identification and risk assessments are made.

**507. Occupier's duty to keep record and provide copies and access**

- (1) The occupier of a workplace must provide a copy of the most recent record of results to—
  - (a) any employer or self-employed person who is a tenant at the workplace; and
  - (b) a person licensed under Part 4, if removal of asbestos is required.
- (2) The occupier of a workplace must inform any person engaged to do work which involves the likelihood of exposure to asbestos of the results and must provide access to the most recent record of results.
- (3) If access is requested, an occupier of a workplace must provide access to the most recent record of results to any person engaged to do work by the occupier.
- (4) If a copy is requested, an occupier of a workplace must provide a copy of the most recent record of results to an employer or self-employed person who proposes to occupy the workplace.
- (5) The occupier of a workplace must retain the record of results.

**508. Occupier's duty on relinquishing management or control**

If an occupier of a workplace is intending to relinquish management or control of a workplace, the occupier must provide a copy of the most recent record of results to the new occupier, if any.

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 5—Asbestos in Workplaces (in situ)

r. 510

Reg. 509  
revoked by  
S.R. No.  
16/2003  
reg. 509(2).

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**510. Occupier's general duty to undertake control of risk**

An occupier of a workplace must ensure that risk associated with the presence of asbestos at the workplace is controlled—

- (a) by eliminating the risk; or
- (b) if it is not practicable to eliminate the risk, by reducing the risk so far as is practicable.

**511. Occupier's duty to undertake specific measures to control risk**

- (1) An occupier of a workplace must ensure that risk associated with the presence of asbestos is controlled, so far as is practicable, by removing the asbestos-containing material.
- (2) If it is not practicable to remove the asbestos-containing material, an occupier of a workplace must enclose the material so far as is practicable to control any risk associated with the presence of asbestos.
- (3) If an occupier of a workplace has enclosed the asbestos-containing material so far as is practicable and a risk remains, the occupier must seal the material to control any risk associated with the presence of asbestos.
- (4) Where an occupier of a workplace arranges for asbestos-containing material to be removed in accordance with sub-regulation (1), unless the removal is permitted under regulation 207, the occupier must ensure that the person engaged to conduct the removal work holds a licence under Part 4.

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**512. Occupier's duty to ensure risk control measures are properly maintained**

An occupier of a workplace must ensure that any control measures used to control the risk associated with the presence of asbestos implemented by the occupier are properly installed and maintained.

**513. Atmospheric monitoring**

- (1) An occupier of a workplace must ensure that atmospheric monitoring at the workplace is provided if—
  - (a) atmospheric monitoring is necessary to determine whether there is a risk associated with the presence of asbestos; or
  - (b) the exposure standard might be exceeded.
- (2) The occupier of a workplace must ensure a copy of the results of atmospheric monitoring are accessible to an employer at the workplace.

**Division 2—Employer Duties**

**514. Application of this Division**

The duties of an employer under this Division do not apply to a licence holder with respect to removal work being undertaken at a domestic premises used solely for domestic purposes which becomes a workplace due to that removal work.

Note: A licence holder who is contracted to undertake removal work at a domestic premises must comply with the duties under Part 7 if the amount to be removed is more than 10 square metres. In addition, duties under Part 6 or 8 may apply.

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**515. Employer to obtain copy of record of results from occupier**

- (1) An employer must obtain from the occupier of the workplace, a copy of the most recent record of results of identification of asbestos and risk assessments required to be provided by the occupier under regulation 507.
- (2) The employer must ensure that a copy of the record of results obtained under sub-regulation (1) is readily accessible to any employee.

**516. Employer's duty to assess risk having regard to activities undertaken by the employer in relation to the occupier's record of results**

- (1) An employer must assess the risk associated with the presence of asbestos in a building, structure, ship or plant over which the occupier has management or control, having regard to activities undertaken by the employer and whether the activity could give rise to a risk.
- (2) In undertaking an assessment under this regulation, the employer must have regard to the occupier's record of results obtained under regulation 515.

Note: "plant over which the occupier has management or control" would include that plant which generally forms part of the structure; for example, a lift, boiler, air-conditioning plant, plant room, etc.

Regulation 520 places a duty on an employer to undertake a risk assessment with respect to plant over which the employer has management or control.

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**517. Employer's duty to notify occupier of risk**

Where an employer determines as a result of any risk assessment conducted and based on an occupier's record of results, that a risk associated with the presence of *in situ* asbestos may occur as a result of an activity undertaken by the employer, the employer must notify the occupier of the workplace of this fact.

**518. Employer's duty to identify asbestos in plant at the workplace**

- (1) An employer must determine, so far as is practicable, whether asbestos is present in the workplace in any plant over which the employer has management or control.
- (2) Having determined that asbestos is present, an employer must identify—
  - (a) the type of asbestos-containing material; and
  - (b) the location of asbestos-containing material in the plant; and
  - (c) whether the asbestos is friable or non-friable; and
  - (d) the condition of the asbestos-containing material.
- (3) If an employer has determined that there is asbestos in the workplace, the employer must ensure—
  - (a) that the presence and location of asbestos is clearly identified; and
  - (b) where practicable, the identification is by labelling.

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**519. Identification of asbestos and inaccessible areas**

If the employer is uncertain as to whether there is asbestos present in plant over which the employer has management or control, or there are inaccessible areas that are likely to contain asbestos, the employer must—

- (a) deem that asbestos is present; or
- (b) arrange for an analysis of a sample to be undertaken by an approved analyst.

**520. Employer's duty to assess risk associated with presence of asbestos in plant over which the employer has management or control**

An employer must assess the risk associated with the presence of asbestos in plant over which the employer has management or control at a workplace having regard to—

- (a) the factors identified under regulation 518;
  - (b) whether the asbestos-containing material is liable to further damage or deterioration;
  - (c) whether there are any inaccessible areas that are likely to contain asbestos;
  - (d) whether the nature or location of any work likely to be carried out by any employee is likely to cause a disturbance of asbestos-containing material;
  - (e) any other factors considered relevant by the employer, the employees or the health and safety representative for the relevant designated work group.
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**521. Employer's duty to review and revise risk assessment**

- (1) An employer must ensure that any risk assessment conducted under this Division is reviewed and, where necessary, revised, or that another assessment is carried out, if—
  - (a) there is a change in the condition of the asbestos-containing material; or
  - (b) asbestos-containing material has been removed, enclosed or sealed; or
  - (c) there is evidence to indicate that the risk assessment no longer adequately assesses the risk associated with the presence of asbestos in the plant; or
  - (d) the health and safety representative for the designated work group so requests, with reasonable cause.
- (2) Despite sub-regulation (1), an employer must ensure that a risk assessment is reviewed at intervals not exceeding 5 years.

**522. Record of results**

- (1) An employer must record the results of an identification and any risk assessment conducted under these Regulations.
  - (2) The record of results must contain—
    - (a) information in relation to the factors required to be identified;
    - (b) details of inaccessible areas in plant that are likely to contain asbestos;
    - (c) the results of all risk assessments, including any reviewed or revised assessment;
    - (d) the dates when the identification and risk assessments are made.
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*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 5—Asbestos in Workplaces (in situ)

r. 523

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- (3) In relation to a risk assessment conducted under regulation 516, the record of results must also contain the following information—
- (a) a copy of the record of results of the occupier;
  - (b) whether an activity undertaken by the employer could give rise to a risk to health.

**523. Employer's duty to keep records and provide copies and access**

- (1) An employer must ensure that a copy of the most recent record of results is readily accessible to any employee who has the potential to be exposed to asbestos.
- (2) The employer must provide a copy of the most recent record of results to the health and safety representative for any relevant designated work group.
- (3) The employer must inform any person engaged to do work which involves the likelihood of exposure to asbestos of the results of a risk assessment and must provide access to the most recent record of results.
- (4) If access is requested, the employer must provide access to the most recent record of results to any person engaged to do work by the employer.
- (5) The employer must retain the record of results.

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Reg. 524  
revoked by  
S.R. No.  
16/2003  
reg. 524(2).

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**525. Employer's general duty to undertake control of risk**

An employer must ensure that any risk to any person associated with the presence of asbestos at the workplace is controlled—

- (a) by eliminating the risk; or
- (b) if it is not practicable to eliminate the risk, by reducing the risk so far as is practicable.

**526. Employer's duty to undertake specific measures to control risk in plant**

- (1) In relation to asbestos in plant over which the employer has management or control at the workplace, an employer must ensure that any risk associated with the presence of asbestos is controlled, so far as is practicable, by removing the asbestos-containing material.
- (2) If it is not practicable to remove the asbestos-containing material, an employer must enclose the material so far as is practicable, to control any risk associated with the presence of asbestos.
- (3) If an employer has enclosed the asbestos-containing material so far as is practicable and a risk remains, the employer must seal the material to control any risk associated with the presence of asbestos.
- (4) Where an employer arranges for asbestos-containing material to be removed in accordance with sub-regulation (1), unless the removal is permitted under regulation 207, the employer must ensure that the person engaged to conduct the removal work holds a licence under Part 4.

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**527. Employer's duty to ensure risk control measures are properly used, installed and maintained**

An employer must ensure that any control measures used to control the risk associated with the presence of asbestos implemented by the employer or the occupier are properly used, installed and maintained.

**528. Atmospheric monitoring**

- (1) An employer must ensure that atmospheric monitoring at the workplace is provided if—
    - (a) atmospheric monitoring is necessary to determine whether there is a risk associated with the presence of asbestos; or
    - (b) the exposure standard might be exceeded.
  - (2) The employer must ensure a copy of the results of atmospheric monitoring are accessible to a health and safety representative for any relevant designated work group.
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**PART 6—DEMOLITION (INCLUDING REFURBISHMENT)  
WHERE ASBESTOS IS PRESENT**

**601. Application of Part**

- (1) This Part applies to the carrying out of demolition works on a building, structure, ship or plant where asbestos is fixed or installed.
- (2) In this Part, "demolition" includes the refurbishment or destruction of a building, structure, ship or plant.

Note: Demolition does not include minor maintenance works or other works of a minor nature.

**602. Occupier to review risk assessment**

- (1) Before commencing demolition works, an occupier of a workplace must review the risk assessment conducted under regulation 504, or, in the case of proposed demolition works on plant over which an employer has management or control, the employer must review the risk assessment conducted under regulation 520, having regard to the proposed demolition works.
- (2) If the risk assessment under regulation 504 or 520 is found to be inadequate having regard to the proposed demolition works, the occupier, or employer, as the case may be, must revise that risk assessment accordingly.
- (3) The occupier or employer, as the case may be, must ensure that the record of results is revised to reflect any revision of the risk assessment that has been conducted in accordance with this regulation.

**603. Identification of asbestos**

- (1) An employer or self-employed person carrying out demolition works in relation to a building, structure, ship or plant over which an occupier of a workplace has management or control, must

obtain a copy of the current record of results prepared by an occupier under Part 5.

- (2) An employer or self-employed person carrying out demolition works in relation to plant over which an employer has management or control must obtain a copy of the current record of results prepared by that employer under Part 5.
- (3) If there is no record of results, the employer or self-employed person carrying out demolition works must not commence those works until it has been determined whether asbestos is present in the building, structure, ship or plant to be demolished.
- (4) If the employer or self-employed person carrying out demolition works is uncertain as to whether there is asbestos present, or there are inaccessible areas that are likely to contain asbestos, the employer or self-employed person must—
  - (a) deem that asbestos is present; or
  - (b) arrange for an analysis of a sample to be undertaken by an approved analyst.
- (5) Where the employer or self-employed person carrying out demolition works has determined that asbestos is present, the employer or self-employed person must inform the occupier of the workplace that asbestos is present.

**604. Duty to ensure asbestos removed prior to demolition**

- (1) If an occupier of a workplace has determined that asbestos is present in any building, structure, ship or plant and demolition works will be taking place, the occupier must ensure, so far as is practicable, that any asbestos which may become disturbed as a result of those demolition works, is removed prior to the commencement of works.

- (2) Sub-regulation (1) does not preclude the need to demolish parts of a building, structure, ship or plant in order to access the asbestos.

**Example**

Part of a wall may be demolished to access asbestos in a riser shaft.

- (3) An occupier of a workplace must ensure that the removal of asbestos is undertaken—
- (a) by a person licensed under Part 4; or  
Note: a licence holder must conduct removal work in accordance with Part 7
  - (b) if the removal work is permitted under regulation 207, that the removal is conducted in accordance with Part 8.
- (4) Sub-regulation (1) does not apply in an emergency situation as defined in regulation 605.
- (5) In the case of domestic premises used solely for domestic purposes, the employer or self-employed person carrying out demolition works is the occupier for the purposes of this regulation.

**605. Emergency situations**

- (1) For the purposes of this regulation, "**emergency**" means where it has been determined—
- (a) by an emergency order issued under the **Building Act 1993**; or
  - (b) in a report by a structural engineer—  
that a building or structure is structurally unsound or in danger of imminent collapse.

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 6—Demolition (Including Refurbishment) where Asbestos is Present

r. 605

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- (2) In the case of an emergency, and where it is likely that asbestos is present, the occupier of a workplace must ensure that—
- (a) a procedure is established prior to demolition having regard to the risk assessment conducted under regulation 504 which, when carried out, will so far as is practicable, control the risk to health to employees and persons in the vicinity of the demolition site; and
  - (b) the Authority is notified in accordance with sub-regulation (3) immediately the emergency is established and prior to the commencement of demolition works.
- (3) Notification must be in writing and must include information about the location of the emergency and the contact details of the occupier.
- (4) If asbestos-containing material must be removed from a demolition site as part of an emergency situation, the occupier must ensure—
- (a) the removal is conducted by a person licensed under Part 4; or
  - (b) if the removal work is permitted under regulation 207, that the removal is conducted in accordance with Part 8.
- (5) A licence holder engaged for the purpose of removal as part of an emergency situation must comply, so far as is practicable, with Part 7.
- (6) In the case of domestic premises used solely for domestic purposes, the employer or self-employed person carrying out demolition works is the occupier for the purposes of this regulation.
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**PART 7—REMOVAL OF ASBESTOS FROM BUILDINGS,  
STRUCTURES, SHIPS AND PLANT BY LICENCE HOLDERS**

**Division 1—General**

**701. Application of Part**

- (1) This Part applies to the removal of—
  - (a) friable asbestos-containing material of any quantity; and
  - (b) non-friable asbestos-containing material more than that permitted to be removed under regulation 207—

which is fixed or installed in a building, structure, ship or plant at a workplace.

- (2) This Part does not apply if Part 8 applies.

**702. Person not to carry out removal work unless licensed**

- (1) A person must not conduct removal work unless that person—
  - (a) is a licence holder; or
  - (b) is an employee of a licence holder.
- (2) A licence holder must ensure that removal work is undertaken in accordance with the licence, including any terms and conditions of the licence.

**703. Supervisors**

- (1) A licence holder must appoint one or more supervisors to oversee removal work.
- (2) A supervisor must be a person who is specified on the licence.

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 7—Removal of Asbestos from Buildings, Structures, Ships and Plant by  
Licence Holders

r. 704

- (3) The licence holder must ensure that any appointed supervisor has the appropriate training and experience to enable removal work to be conducted in a manner that is safe and without risk to health.

**704. Employer's duty to provide information to job applicants**

A licence holder must provide information to each applicant who applies for employment with the licence holder to undertake removal work about—

- (a) the risks associated with exposure to asbestos; and
- (b) the need for, and details of, medical examinations.

**705. Persons carrying out removal work to have appropriate training**

- (1) The licence holder must ensure that a person does not remove asbestos-containing material from any building, structure, ship or plant unless that person—
  - (a) is an employee of the licence holder; and
  - (b) has the appropriate training to conduct removal work, in a manner that is safe and without risk to health.
- (2) The licence holder must ensure a record is kept and maintained of the training undertaken by each employee.
- (3) The licence holder must ensure that the record of training is readily accessible at the removal site.

**706. Need for medical examinations and information**

- (1) A licence holder must arrange for an appropriate medical examination to be conducted by a medical practitioner for each employee engaged in removal work before that employee commences removal work for the first time for that licence holder, unless the employee has had a medical examination within the preceding year under these Regulations or the Occupational Health and Safety (Asbestos) Regulations 1992, as in force immediately before 1 February 2003.
- (2) A licence holder must ensure medical examinations are provided for employees—
  - (a) at intervals of not more than 2 years; and
  - (b) within 30 days after an employee has ceased removal work unless the employee has had a medical examination within the preceding year.
- (3) The licence holder must notify the Authority in writing as soon as is reasonably possible of the name and contact details of the registered medical practitioner the licence holder has engaged to undertake medical examinations in accordance with this regulation.
- (4) The licence holder must ensure that—
  - (a) a copy of the results of the medical examination is provided by the medical practitioner to the employee; and
  - (b) a summary of results of the employee indicating whether an asbestos-related disease exists and fitness for work in that industry, is provided to the licence holder by the medical practitioner.
- (5) The licence holder must retain a copy of the summary of results obtained under this regulation.

**707. Licence holder's duty to keep results of medical examinations confidential**

A licence holder must ensure that a copy of the summary of results of a medical examination provided under regulation 706 is kept confidential and may only release a copy of the summary of results to—

- (a) an employee to whom the results relate; or
- (b) a third party, if the employee to whom the result relates authorises in writing access to the summary of results by the third party; or
- (c) the Authority, if the Authority requests a copy.

**708. General duty to undertake control of risk**

The licence holder must ensure that any risk to any person associated with the removal of asbestos at the workplace is controlled—

- (a) by eliminating the risk; or
- (b) if it is not practicable to eliminate the risk, by reducing the risk so far as is practicable.

**709. Duty to obtain risk assessment**

- (1) A licence holder must ensure that a copy of the most recent record of results in accordance with regulation 507 or 523 is obtained from the person who commissioned the removal work.
- (2) This regulation does not apply where the removal work will be conducted at a domestic premises used solely for domestic purposes and the person who commissioned the work is the occupier of that premises.

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**710. Duty to prepare Control Plan**

- (1) Prior to commencing removal work, the licence holder must prepare a Control Plan which is consistent with these Regulations.
- (2) A Control Plan must—
  - (a) have regard to the record of results obtained under regulations 507 or 523; and
  - (b) include information on the items listed in Schedule 2.
- (3) The licence holder must provide a copy of the Control Plan to the person who commissioned the removal work.
- (4) A copy of the Control Plan must be readily accessible for the duration of the removal work to—
  - (a) employees at the workplace;
  - (b) an employer at the workplace;
  - (c) the health and safety representative for any relevant designated work group;
  - (d) any person engaged to do work at the workplace;
  - (e) an inspector.
- (5) Sub-regulation (2)(a) does not apply where the removal work will be conducted at a domestic premises used for domestic purposes only.

**711. Duty to control airborne asbestos fibres**

For the purposes of complying with regulation 708, the licence holder must ensure that the removal of asbestos is conducted in a manner that will eliminate the release of airborne asbestos fibres so far as is practicable.

**712. Duty to provide protective equipment to employees**

The licence holder must provide—

- (a) personal protective clothing, as is appropriate to the removal work being undertaken; and
- (b) respiratory protective equipment on an individual basis, as is appropriate to the removal work being undertaken—

that is correctly fitted.

**713. Signs and barricades**

A licence holder must ensure that—

- (a) appropriately placed signs and barricades are used to identify the asbestos removal area; and
- (b) persons not involved with the removal work do not enter the area.

**714. Decontamination facilities**

- (1) A licence holder must provide and maintain decontamination facilities at the workplace to prevent asbestos contamination outside the asbestos removal area.
- (2) A licence holder must ensure that a person does not remove asbestos contaminated personal protective equipment or clothing from the workplace, except for the purpose of disposal in accordance with regulation 717 or laundering in accordance with regulation 718.
- (3) Where personal protective equipment or clothing must be removed from the workplace, the licence holder must ensure that the equipment or clothing is—
  - (a) decontaminated; or

- (b) disposed of in accordance with regulation 717; or
  - (c) laundered in accordance with regulation 718.
- (4) A licence holder must ensure that any equipment used for the removal of asbestos is—
- (a) decontaminated; or
  - (b) placed in a sealed container which is decontaminated before the equipment is removed from the area.

**715. Duty with respect to risk control measures implemented**

A licence holder must ensure that any control measures used to control the risk associated with exposure to airborne asbestos fibres are properly used, installed and maintained.

**716. Licence holder's duty with respect to airborne asbestos fibre levels**

- (1) Where—
- (a) removal work is being undertaken; and
  - (b) paraoccupational air monitoring is being performed to establish if asbestos fibres are being released from the asbestos removal area into the environment; and
  - (c) airborne asbestos fibre levels in excess of 0.01 f/ml but not in excess of 0.05 f/ml are recorded—

the licence holder must comply with sub-regulation (2).

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 7—Removal of Asbestos from Buildings, Structures, Ships and Plant by  
Licence Holders

r. 717

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- (2) The licence holder must immediately—
    - (a) investigate the cause of the high levels of airborne asbestos fibres; and
    - (b) implement controls to—
      - (i) prevent exposure to any person; and
      - (ii) prevent further release of airborne asbestos fibres.
  - (3) Where airborne asbestos fibre levels in excess of 0.05 f/ml are recorded during a removal, the licence holder must immediately—
    - (a) order work to stop;
    - (b) notify the Authority;
    - (c) carry out the requirements of sub-regulation (2);
  - (4) If a licence holder has stopped work due to airborne asbestos fibre levels in excess of 0.05 f/ml being recorded, the licence holder must ensure that work does not recommence until—
    - (a) paraoccupational air monitoring is undertaken; and
    - (b) paraoccupational air monitoring indicates the level of airborne asbestos fibres is at or below 0.01 f/ml.

**717. Disposal of asbestos waste**

A licence holder must ensure that asbestos waste is—

- (a) identified to indicate the presence of asbestos; and
- (b) contained so as to eliminate the release of airborne asbestos fibres; and

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 7—Removal of Asbestos from Buildings, Structures, Ships and Plant by  
Licence Holders

r. 718

- (c) transported in an appropriate manner; and

Note: The Environment Protection Authority controls the transportation of asbestos of industrial origin. Owners of vehicles that transport industrial-sourced waste asbestos must hold a waste transport permit. The permit will stipulate necessary controls for the safe handling and safe disposal of waste asbestos.

- (d) disposed of as soon as is practicable; and
- (e) disposed of in an appropriate manner which eliminates the release of airborne asbestos fibres; and
- (f) disposed of at a waste disposal site licensed by the Environment Protection Authority.

Note: Asbestos waste must be disposed of only at a site licensed by the Environment Protection Authority to accept waste asbestos. Licence conditions require waste asbestos to be handled and covered in such a manner that asbestos dust is not generated.

**718. Laundering of asbestos contaminated clothing**

- (1) A licence holder must provide for the laundering of protective clothing that is not disposed of in accordance with regulation 717.
- (2) If the licence holder arranges for asbestos contaminated clothing to be laundered at a commercial laundry, the licence holder must ensure that the clothing is contained so as to eliminate the release of airborne asbestos fibres and identified to indicate the presence of asbestos before the clothing is transferred to the laundry.

**719. Duty to provide information, instruction and training**

A licence holder must provide employees with such information, instruction and training as is necessary to enable the employees to perform their work in a manner that is safe and without risks to their health in relation to—

- (a) the nature of the hazard and the risk associated with exposure to asbestos; and
- (b) the health effects associated with exposure to asbestos; and
- (c) the need for, and proper use of, measures to control the risk including the maintenance, cleaning and storage of personal protective equipment.

**Division 2—Specific duties which apply to the removal of friable asbestos**

**720. Application of Division**

This Division applies to a Class A licence holder with respect to the removal of friable asbestos or asbestos-containing material from any building, structure, ship or plant.

**721. Supervisor to be on site**

A licence holder must ensure that the appointed supervisor is on site at all times when removal work is being undertaken.

**722. Duty to undertake specific measures to control risk**

- (1) A licence holder must ensure that the asbestos removal area is enclosed to prevent asbestos contamination away from the area in which the removal is taking place.

- (2) A licence holder must ensure that the removal work is conducted, so far as is practicable, by using a wet method.
- (3) For the purposes of sub-regulation (2), "**wet method**" means the use of water to soak or totally saturate the asbestos-containing material, or the spraying of water on the asbestos-containing material, but does not include the use of a high pressure water jet.
- (4) The licence holder must ensure, so far as is practicable, that the enclosed area is smoke tested prior to removal work commencing so as to ensure the enclosed area is constructed to prevent asbestos contamination outside that area.

**723. Paraoccupational air monitoring**

- (1) The licence holder must not commence removal work until paraoccupational air monitoring has commenced in accordance with regulation 730.
- (2) The licence holder must ensure that results of paraoccupational air monitoring are accessible to employees.

**724. Requirements at end of removal work**

- (1) After receiving verification from the person who commissioned the removal work in accordance with regulation 731(2), the licence holder must dismantle, in a proper and safe manner, any structure used to enclose the asbestos removal area.
- (2) On completion of removal work, the licence holder must promptly dispose of asbestos waste in accordance with regulation 717.

**725. Specific provisions dealing with the use of glove bags**

- (1) Regulations 722(4), 730 and 731(1)(b) do not apply where glove bags are being used for removal work.
- (2) The licence holder must dismantle, in a proper and safe manner, any glove bag used to enclose the asbestos removal area.

**Division 3—Specific duties which apply to the removal of non-friable asbestos**

**726. Application of Division**

This Division applies to the duties of a licence holder with respect to the removal of non-friable asbestos or asbestos-containing material from any building, structure, ship or plant.

**727. Supervisor to be accessible**

A licence holder must ensure that the supervisor appointed for the removal work is readily accessible at all times when removal work is being undertaken.

**Division 4—Specific duties which apply to a person who commissioned removal work**

**728. Application of Division**

- (1) The duties in this Division apply to a person who commissioned the removal of asbestos or asbestos-containing material from any building, structure, ship or plant.
- (2) In the case of domestic premises used solely for domestic purposes, the licence holder is the person who commissioned the removal work for the purposes of this Division.

**729. Employers in immediate and adjacent areas to be informed**

A person who commissioned the removal work of friable or non-friable asbestos-containing material must inform all employers in the immediate and adjacent areas where the removal work will take place of the proposed removal work prior to that work commencing.

**730. When paraoccupational air monitoring is required**

- (1) A person who commissioned the removal work of friable asbestos-containing material must arrange for paraoccupational air monitoring to be conducted when—
  - (a) the removal work will be conducted indoors;  
or
  - (b) the removal work will be conducted outdoors and the work will constitute a risk to other persons.
- (2) The person who commissioned the removal work must arrange for paraoccupational air monitoring samples to be analysed by an approved analyst at the end of each air monitoring period.
- (3) The person who commissioned the removal work must provide the results of paraoccupational air monitoring to the licence holder as soon as the results are received.
- (4) The person who commissioned the removal work must ensure a copy of the results of paraoccupational air monitoring are accessible to a health and safety representative for any relevant designated work group.

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**731. Requirements at end of removal work**

- (1) On completion of removal work of friable asbestos-containing material, the person who commissioned the removal work must arrange for—
  - (a) a visual inspection of the asbestos removal area by an independent person to verify that there is no asbestos residue remaining as a result of the removal work undertaken in the enclosed area or area immediately surrounding the asbestos removal area; and
  - (b) paraoccupational air monitoring within the enclosed area to verify that the airborne asbestos fibre level is less than 0.01 f/ml as a time weighted average.
- (2) The person who commissioned the removal work must ensure that the results of the inspection conducted under sub-regulation (1) are provided to the licence holder.

**732. Clearance Certificates**

- (1) A person who commissioned the removal work of—
  - (a) friable asbestos-containing material; or
  - (b) more than 10 square metres of non-friable asbestos-containing material—must obtain a Clearance Certificate from an independent person prior to the site being re-occupied.
- (2) A Clearance Certificate must state that—
  - (a) an inspection by an independent person found that there is no visible asbestos residue in the area from which the removal took place; and

- (b) where applicable, paraoccupational air monitoring in the area from which the removal took place indicates that the airborne asbestos fibre level is less than 0.01 f/ml as a time weighted average.

### **Division 5—Notification Procedures**

#### **733. Notification to Authority**

- (1) Subject to sub-regulation (4), at least 5 days before removal work commences, a licence holder must—
  - (a) notify the Authority in writing; and
  - (b) give a copy of the notification to the person who commissioned the removal work.
- (2) Notification must include the information in Schedule 3.
- (3) If any information submitted with the notification in accordance with sub-regulation (2) alters in any manner, the licence holder must notify the Authority that the information has altered as soon as possible after it is known that the information has altered.
- (4) The Authority may vary the notification requirements under this regulation by including a specific condition in a licence with respect to notification.

#### **734. Notification in an unexpected situation**

- (1) For the purposes of this regulation, "**unexpected situation**" means—
  - (a) a sudden, unexpected event, including work required by non-routine failures of equipment, which may result in persons being exposed to asbestos; or

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

r. 735

Part 7—Removal of Asbestos from Buildings, Structures, Ships and Plant by  
Licence Holders

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- (b) an unexpected breakdown of an essential service (including gas, water, sewerage, electricity and telecommunications) that requires immediate rectification to enable continuance of that service.
- (2) In an unexpected situation, the licence holder must, not later than 24 hours after commencing removal work, notify the Authority in writing.
- (3) Notification must include the information in Schedule 3.
- (4) The Authority may vary the notification requirements for the purposes of situations specified in sub-regulation (1)(b) by including a specific condition in a licence.

**735. Information to be provided to those in area**

An employer at the workplace must inform employees in the immediate and adjacent areas where the removal work will take place of the proposed removal work prior to that work commencing.

**Division 6—Employee Duties**

**736. Employee duties**

While at work, an employee must—

- (a) use any risk control measures put in place or provided by the employer; and
  - (b) use any risk control measures in the manner in which they were intended to be used.
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**PART 8—ACTIVITIES INVOLVING ASBESTOS-CONTAINING PRODUCTS AND MATERIALS**

Note: The general requirements of Parts 1 and 2, and the prohibitions in Part 3, also apply to the activities listed in this Part.

**801. Application of Part**

- (1) This Part applies to activities listed in sub-regulation (2) which are undertaken at a workplace.
- (2) Activities to which this Part applies are—
  - (a) the handling, including for the purpose of removal or transport for disposal, of aircraft products and automotive products likely to contain asbestos-containing material;
  - (b) the laundering of asbestos contaminated clothing;
  - (c) research involving asbestos and asbestos-containing material;
  - (d) sampling or analysis involving suspected asbestos or asbestos-containing material;
  - (e) the transport of waste asbestos for disposal purposes;
  - (f) working at a site licensed by the Environment Protection Authority to accept waste asbestos;
  - (g) the removal of any non friable asbestos-containing material permitted under regulation 207;

Note: All other removal of asbestos-containing material which is fixed or installed in a building, structure, ship or plant not covered by this Part is regulated by Part 7.

- (h) the enclosing or sealing of asbestos-containing material;
- (i) hand drilling and cutting of asbestos-containing material;
- (j) maintenance of dust extraction equipment, contaminated with asbestos;
- (k) any other task (other than the removal of fixed or installed asbestos-containing material to which Part 7 applies) which is likely to create airborne asbestos fibres in excess of one half of the exposure standard;
- (l) any other activity determined by the Authority for the purposes of this Part.

**802. Duty to identify activity under this Part**

An employer must identify whether an activity listed in regulation 801(2) is being undertaken at the employer's workplace.

**803. Uncertainty as to presence of asbestos**

Where there is uncertainty as to whether an activity does involve asbestos-containing products or material, the employer must—

- (a) deem that asbestos is present; or
- (b) arrange for an analysis to be undertaken by an approved analyst.

**804. Duty to obtain occupier's or employer's record of results**

In relation to the activities specified in paragraphs (d), (g), (h) and (i) of regulation 801(2), the employer must obtain a copy of the occupier's record of results under regulation 507 or the employer's record of results under regulation 523.

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**805. Duty to undertake risk assessment**

- (1) An employer must assess the risk associated with an activity to which this Part applies at a workplace.
- (2) A risk assessment must take into account—
  - (a) an occupier's or employer's record of results of a risk assessment obtained under regulation 804, if applicable; and
  - (b) the nature of the work required to be performed; and
  - (c) the type of asbestos-containing material; and
  - (d) whether the asbestos-containing material is friable or non-friable; and
  - (e) the exposure of employees to airborne asbestos fibres; and
  - (f) the systems of work in the workplace; and
  - (g) whether the work to be performed will be a risk to others.
- (3) An employer must record the results of any risk assessment made in relation to an activity under this Part.
- (4) An employer must retain the record of results while the assessment is relevant to the activity.
- (5) An employer must ensure that a copy of the record of results is readily accessible to any employee who has the potential to be exposed to airborne asbestos fibres.
- (6) The employer must provide a copy of the most recent record of results to the health and safety representative for any relevant designated work group.

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**806. Generic risk assessments**

- (1) For the purposes of complying with regulation 805, if an activity to which this Part applies is conducted in the same or similar circumstances at more than one workplace or at more than one work area within a workplace, an employer may apply a single generic assessment of representative work to each of those workplaces or work areas.
- (2) If an employer applies a generic assessment under sub-regulation (1), the employer must ensure that it is appropriate to apply the assessment and that all risks associated with the activity are taken into account.

**807. Employer's duty to review and revise risk assessment**

- (1) Where a risk assessment under regulation 805 exists for an activity, an employer must ensure that the risk assessment is reviewed and, where necessary, revised, or that another assessment is carried out, if—
    - (a) there is a change in the manner in which the activity is being undertaken; or
    - (b) there is evidence to indicate that the risk assessment no longer adequately assesses the risk associated with the presence of asbestos at the workplace; or
    - (c) the health and safety representative for the designated work group so requests, with reasonable cause.
  - (2) Despite sub-regulation (1), an employer must ensure that a risk assessment is reviewed at intervals not exceeding 5 years.
  - (3) An employer must record the date that a risk assessment is reviewed.
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**808. Duty to control airborne asbestos fibres**

An employer must ensure that, when undertaking an activity to which this Part applies, the activity is conducted in a manner that will eliminate the release of airborne asbestos fibres so far as is practicable.

**809. Duty to undertake control of risk**

An employer must ensure that any risk associated with exposure to airborne asbestos fibres is controlled—

- (a) by eliminating the risk; or
- (b) if it is not practicable to eliminate the risk, by reducing the risk so far as is practicable.

**810. Duty to undertake specific measures to control risk**

- (1) An employer must ensure that any risk associated with exposure to airborne asbestos fibres in relation to an activity to which this Part applies is controlled by—
    - (a) isolation; or
    - (b) using engineering controls; or
    - (c) combining the control measures in paragraphs (a) and (b).
  - (2) If an employer has complied with sub-regulation (1) so far as is practicable and a risk associated with an activity remains, the employer must, so far as is practicable, use administrative controls to reduce the risk.
  - (3) If an employer has complied with sub-regulations (1) and (2) so far as is practicable and a risk associated with an activity remains, the employer must control the risk by providing personal protective clothing and equipment to employees at risk.
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- (4) Where protective clothing and equipment is provided to employees, the employer must provide—
- (a) personal protective clothing, as is appropriate to the activity being undertaken; and
  - (b) respiratory protective equipment on an individual basis, as is appropriate to the activity being undertaken—
- that is correctly fitted.

**811. Employer's duty to ensure risk control measures are properly used, installed and maintained**

An employer must ensure that any control measures used to control the risk associated with the presence of asbestos are properly used, installed and maintained.

**812. Atmospheric monitoring**

- (1) An employer must ensure that atmospheric monitoring at the workplace is provided if—
- (a) atmospheric monitoring is necessary to determine whether there is a risk associated with the presence of asbestos; or
  - (b) there is uncertainty as to whether a medical examination may be required under this Part.
- (2) The employer must ensure a copy of the results of atmospheric monitoring are accessible to any employee who has the potential to be exposed to airborne asbestos fibres.

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**813. Area to be separate and identified**

An employer must ensure that the work area used for an activity to which this Part applies is—

- (a) kept separate from any other work area; and
- (b) where practical, identified with appropriately placed signs.

**814. Area to be kept clean**

- (1) An employer must, so far as is practicable, ensure that the work area used for an activity to which this Part applies is kept clean.
- (2) An employer must ensure that the methods used to clean a work area—
  - (a) do not create a risk; and
  - (b) do not have the potential to spread the contamination of asbestos.
- (3) An employer must ensure that dry sweeping methods are not used in any work area used for an activity to which this Part applies.

Note: Regulation 305 imposes prohibitions in relation to the use of certain tools at a workplace.

**815. Need for medical examinations**

- (1) An employer must arrange for an appropriate medical examination to be conducted by a medical practitioner for each employee engaged in ongoing activities to which this Part applies if there is a risk of exposure to airborne asbestos fibres above half the exposure standard.

Note: If, after having implemented risk control measures in accordance with regulation 810(1), a risk of exposure to airborne asbestos fibres above half the exposure standard remains, the employer must provide for medical examinations in accordance with this regulation. Respiratory protection devices must not be considered in establishing whether there is a risk

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 8—Activities Involving Asbestos-Containing Products and Materials

r. 816

of exposure to airborne asbestos fibres above half the exposure standard.

- (2) An employer must ensure medical examinations are provided for employees—
  - (a) at intervals of not more than 2 years; and
  - (b) within 30 days after an employee has ceased an activity to which this Part applies unless the employee has had a medical examination within the preceding year.
- (3) The employer must notify the Authority in writing as soon as is reasonably possible of the name and contact details of the registered medical practitioner the employer has engaged to undertake medical examinations in accordance with this regulation.
- (4) The employer must ensure that—
  - (a) a copy of the results of the medical examination is provided by the medical practitioner to the employee; and
  - (b) a summary of results of the employee indicating whether an asbestos-related disease exists and fitness for work in that industry, is provided to the employer by the medical practitioner.
- (5) The employer must retain a copy of the summary of results obtained under this regulation.

**816. Employer's duty to keep results of medical examinations confidential**

An employer must ensure that a copy of the summary of results of a medical examination provided under regulation 815 is kept confidential and may only release a copy of the summary of results to—

- (a) an employee to whom the results relate; or
- (b) a third party, if the employee to whom the result relates authorises in writing access to the summary of results by the third party; or
- (c) the Authority, if the Authority requests a copy.

**817. Removal of contaminated clothing and equipment from workplace**

- (1) An employer must ensure that a person does not remove asbestos contaminated personal protective equipment or clothing from the work area used for an activity to which this Part applies unless the equipment or clothing is—
  - (a) decontaminated; or
  - (b) disposed of in accordance with regulation 818; or
  - (c) laundered in accordance with regulation 819.
- (2) An employer must ensure that any equipment or tools used for an activity to which this Part applies is—
  - (a) decontaminated; or
  - (b) placed in a sealed container which is decontaminated before the equipment is removed from the area.

**818. Disposal of asbestos waste**

An employer must ensure that asbestos waste is—

- (a) identified to indicate the presence of asbestos; and
- (b) contained so as to eliminate the release of airborne asbestos fibres; and

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Part 8—Activities Involving Asbestos-Containing Products and Materials

r. 819

- (c) transported in an appropriate manner; and

Note: The Environment Protection Authority controls the transportation of asbestos waste of industrial origin. Owners of vehicles that transport industrial-sourced waste asbestos must hold a waste transport permit. The permit will stipulate necessary controls for the safe handling and safe disposal of waste asbestos.

- (d) disposed of as soon as is practicable; and
- (e) disposed of in an appropriate manner which eliminates the release of airborne asbestos fibres; and
- (f) disposed of at a waste disposal site licensed by the Environment Protection Authority.

Note: Asbestos waste must be disposed of only at a site licensed by the Environment Protection Authority to accept waste asbestos. Licence conditions require waste asbestos to be handled and covered in such a manner that asbestos dust is not generated.

**819. Laundering of asbestos contaminated clothing**

- (1) An employer must provide for the laundering of protective clothing that is not disposed of in accordance with regulation 818.
- (2) If the employer arranges for asbestos contaminated clothing to be laundered at a commercial laundry, the employer must ensure that the clothing is contained so as to eliminate the release of airborne asbestos fibres and identified to indicate the presence of asbestos before the clothing is transferred to the laundry.

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**820. Supervision of activities**

When undertaking an activity to which this Part applies, an employer must ensure that appropriate supervision is provided to employees as is necessary to enable the employees to perform their work with asbestos-containing material in a manner that is safe and without risks to their health.

**821. Information to be provided about proposed removal work**

- (1) An employer or self-employed person who plans to remove asbestos-containing material from any building, structure, ship or plant in accordance with regulation 207, must inform the person who commissioned the work that removal work will be undertaken prior to that work commencing.
- (2) A person who has been informed of the proposed removal work under sub-regulation (1) must notify employers in the immediate and adjacent areas to where the proposed removal work will take place before that work commences.
- (3) An employer who has been notified of the proposed removal work in accordance with sub-regulation (2) must inform employees in the immediate and adjacent areas of the proposed removal work prior to that work commencing.

**822. Employer's duty to provide information to job applicants**

An employer must provide each applicant who applies for employment with the employer to undertake an activity to which this Part applies (other than activities specified in regulation 801(2) paragraphs (g), (i) and (k)) with information about the nature of the hazard and the risks associated with exposure to asbestos.

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**823. Information, instruction and training**

- (1) An employer must provide employees with such information, instruction and training as is necessary to enable the employees to perform their work with asbestos-containing material in a manner that is safe and without risks to their health in relation to—
  - (a) the nature of the hazard and the risks associated with exposure to asbestos; and
  - (b) the health effects associated with exposure to asbestos; and
  - (c) the need for, and proper use of, measures to control the risk, including the maintenance, cleaning and storage of personal protective equipment.
- (2) An employer must keep a record of all training provided under this regulation.

**824. Employee duties**

While at work, an employee must—

- (a) use any risk control measures put in place or provided by the employer; and
  - (b) use any risk control measures in the manner in which they were intended to be used.
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**SCHEDULES**

**SCHEDULE 1**

Regulation 402

**INFORMATION TO BE INCLUDED IN AN APPLICATION FOR A  
LICENCE TO CONDUCT REMOVAL WORK**

1. The registered business name, ABN number, contact name and number, and business address of the applicant.
2. The name(s) of the person(s) who will supervise removal work carried out under the licence.
3. In relation to an application for a Class A licence, details of current certification of health and safety management systems (or certification of a quality management system as provided for by regulation 402(4)).
4. Detailed information on the training and experience of the supervisor(s).
5. Detailed information on the type of training employees have undertaken.
6. Details of laundering arrangements, including the name and address of any laundry used for the laundering of personal protective clothing.
7. Whether the applicant (\*or any officer of the applicant) holds a licence or approval for asbestos removal work in any other Australian state or territory.
8. Information as to whether the applicant (\*or any officer of the applicant) has ever had a previous application for a licence as an asbestos removalist by any government or non-government body in any Australian state or territory refused, suspended or cancelled.
9. Information as to whether the applicant (\*or any officer of the applicant) has ever had any previous convictions in relation to asbestos removal work in any Australian state or territory.
10. A statement to the effect that the information contained in the application is true.

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

**Sch. 1**

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11. Proof of identity.
12. A certified copy of business registration.

\*not applicable if the applicant is not a body corporate;

**"Officer"** in this Schedule means an officer of the body corporate within the meaning of section 52(3) of the **Occupational Health and Safety Act 1985**.

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SCHEDULE 1A

Regulation 106A

Sch. 1A  
inserted by  
S.R. No.  
157/2003  
reg. 8.

**CATEGORIES OF ASBESTOS-CONTAINING MATERIAL  
CONTAINING CHRYSOTILE ASBESTOS AND THEIR USES**

*Category 1*

1. Compressed asbestos fibre ("CAF") gaskets used in vessels or pipes that hold or transfer—
  - (a) saturated steam; or
  - (b) superheated steam; or
  - (c) substances that are—
    - (i) hazardous substances within the meaning of the Occupational Health and Safety (Hazardous Substances) Regulations 1999; or
    - (ii) dangerous goods; or
  - (d) chlorine, if, in the case of plants used in liquid chlorine service, there are design process conditions of –45 degrees Celsius and 1500 kPa pressure.
2. The category includes gaskets used in vehicles, such as cylinder head gaskets and exhaust gaskets that contain the substances referred to in item 1.
3. The category does not include—
  - (a) spiral wound gaskets with an asbestos filler;
  - (b) valve packings.
4. Compliance with regulation 311 or 312 is not required until 1 January 2005 or, in the case of item 1(d), until 1 January 2007.

*Category 2*

1. Products consisting of a mixture of asbestos and phenol formaldehyde resin or asbestos and cresylic formaldehyde resin that are used in—
  - (a) vanes for rotary vacuum pumps; or
  - (b) vanes for rotary compressors; or

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

**Sch. 1A**

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- (c) spilt face seals of at least 150 millimetres in diameter used to prevent leakage of water from cooling water pumps in fossil fuel electricity generating stations.
- 2. Compliance with regulation 311 or 312 is not required until 1 January 2008.

***Category 3***

- 1. Diaphragms for use in electrolytic cells in existing electrolysis plants for chlor-alkali manufacture.
- 2. Chlor-alkali products are chlorine, caustic soda and hydrogen. The manufacturing process involves the electrolysis of brine (sodium chloride solution) in electrolytic cells.
- 3. Compliance with regulation 311 or 312 is not required until 1 January 2007.

***Category 4***

- 1. Chrysotile-containing parts and components in relation to which an exemption under the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994 of the Commonwealth has been granted to the Commonwealth Department of Defence or the Australian Defence Force.
  - 2. Compliance with regulation 311 or 312 is not required until 1 January 2008.
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**SCHEDULE 2**

Regulation 710

**INFORMATION REQUIRED TO BE INCLUDED IN A CONTROL PLAN**

A Control Plan prepared under regulation 710 must include—

1. details of location of asbestos-containing material, whether it is friable or non-friable, type of asbestos-containing material and its condition and quantity proposed to be removed;
2. type of personal protective clothing and equipment to be used, including respiratory protective equipment;
3. proposed control measures to be used to contain asbestos to removal area;
4. where a removal area is enclosed, details regarding—
  - (a) smoke testing;
  - (b) negative air units;
5. details of decontamination procedures for—
  - (a) persons working in the removal area;
  - (b) tools and equipment used for the removal work;
  - (c) non-disposable clothing;
6. method of disposal of—
  - (a) asbestos waste;
  - (b) disposable protective clothing and equipment;
  - (c) the structure used to enclose the removal area;
7. administrative controls to be implemented, including—
  - (a) security of area;
  - (b) work practices to be used to control airborne asbestos fibres;
8. methods of cleaning following removal.

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**SCHEDULE 3**

Regulations 733 and 734

**INFORMATION REQUIRED TO BE INCLUDED IN A  
NOTIFICATION OF REMOVAL WORK**

1. The registered business name, ABN number, licence number and contact details of the licence holder.
2. The name of the supervisor who will oversee the removal work and the supervisor's contact details.
3. The client name and contact details.
4. The workplace address and type of workplace at which the removal will take place including the specific location if it is a large workplace.
5. The date of notification.
6. The commencement date and estimated duration of removal work.
7. Whether the asbestos is friable or non-friable.
8. The type of asbestos-containing material.
9. Estimated quantity of asbestos to be removed.
10. Number of employees who will undertake removal work.
11. Details of training and experience of those individual employees, if different to the information notified previously.
12. Dates of risk assessments used to prepare the Control Plan.

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**SCHEDULE 4**

**FEES**

1. The fee for consideration of an application for exemption under regulation 106 is \$53 for each hour or part of an hour, with a maximum fee of \$2 215.
2. The fee for the issue or renewal of a licence under Part 4 is—
  - (a) \$460 for a Class A licence; and
  - (b) \$340 for a Class B licence.

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Endnotes

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**ENDNOTES**

**1. General Information**

The Occupational Health and Safety (Asbestos) Regulations 2003, S.R. No. 16/2003 were made on 29 January 2003 by the Governor in Council under section 59 of the **Occupational Health and Safety Act 1985**, No. 10190/1985 and section 52 of the **Dangerous Goods Act 1985**, No. 10189/1985 and came into operation as follows:

All of regulations (*except* regulation 301(2) and Division 3 of Part 3 (regulations 306–312)) on 1 February 2003: regulation 103(1); regulation 301(2) and Division 3 of Part 3 (regulations 306–312) on 31 December 2003: regulation 103(2).

The Occupational Health and Safety (Asbestos) Regulations 2003 will sunset 10 years after the day of making on 29 January 2013 (see section 5 of the **Subordinate Legislation Act 1994**).

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

Endnotes

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**2. Table of Amendments**

This Version incorporates amendments made to the Occupational Health and Safety (Asbestos) Regulations 2003 by statutory rules, subordinate instruments and Acts.

Where a provision has expired, the provision has been omitted and an explanatory sidenote included.

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Occupational Health and Safety (Asbestos) (Amendment) Regulations 2003,  
S.R. No. 157/2003

*Date of Making:* 16.12.03

*Date of Commencement:* 31.12.03: reg. 3

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*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

**Endnotes**

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**3. Explanatory Details**

<sup>1</sup> Reg. 104: S.R. No. 195/1992. Reprinted as at 17 July 1998.

<sup>2</sup> Reg. 109: S.R. No. 143/1999.

**Table of Applied, Adopted or Incorporated Matter Required by  
Subordinate Legislation Regulations 1994**

Note that the following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 6 of the Subordinate Legislation Regulations 1994.

<b>Statutory Rule Provision</b>	<b>Title of applied, adopted or incorporated matter</b>	<b>Matter in applied, adopted or incorporated document</b>
Regulation 103—Definition of "Membrane Filter Method"	<i>Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Dust</i> , published by the National Occupational Health and Safety Commission, 1988	The Whole

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

---

**INDEX**

<b><i>Subject</i></b>	<b><i>Regulation</i></b>
<b>Analyses</b>	
as activity to which Part 8 applies	801
approved analyst (def.)	105
must be undertaken by approved analysts	206
of paraoccupational air monitoring samples	730
of samples where presence of asbestos uncertain	503, 519, 603, 803
<b>Approvals</b>	
under OHS (Asbestos) Regulations 1992	406, 419–420
<b>Asbestos</b>	
definition	105
general prohibitions	307–311
<b>Asbestos-containing material and products</b>	
activities involving these materials, products	
activities to which Part 8 applies	801
atmospheric monitoring	812
control of risk, airborne asbestos fibres	808–811
disposal of asbestos waste	818
employees' duties	824
equipment used in	817
identification of relevant activities	802
information for job applicants, employees	822–823
medical examinations of employees	815–816
protective clothing and equipment	810, 817–819
records of results	804–805
removal work not requiring licence	821
requirements for relevant work areas	813–814
risk assessment	805–807
training, supervision of employees	820, 823
uncertainty as to nature of activity	803
definition of asbestos-containing material	105
exemption for chrysotile asbestos	106A–106B, Sch. 1A
general prohibitions	305–312
type of asbestos-containing material (def.)	105
<b>Asbestos in workplaces</b>	
application of Part 5	501, 514
atmospheric monitoring	513, 528
control of risk	510–512, 525–527
enclosure, sealing of asbestos-containing material	511, 521, 526
identification, presence of asbestos	502–503, 518–519
inaccessible areas	503–504, 519–520
notification of occupier of risk	517
records of results	506–508, 515–516, 522–523
risk assessment	504–505, 516, 520–521
Asbestos waste <i>See</i> <b>Disposal of asbestos waste</b>	
Authority <i>See</i> <b>Victorian WorkCover Authority</b>	

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*Occupational Health and Safety (Asbestos) Regulations 2003*  
S.R. No. 16/2003

---

<b><i>Subject</i></b>	<b><i>Regulation</i></b>
Class A licences, Class B licences <i>See Licences</i>	
Clothing <i>See Protective clothing and equipment</i>	
<b>Control Plans</b>	105, 710, Sch. 2
<b>Decontamination</b>	714, 817
<b>Definitions</b>	105, 203, 418, 605, 722, 734, Sch. 1
<b>Demolitions</b>	601–605
<b>Disposal of asbestos waste</b>	717, 724, 818
<b>Equipment</b>	305, 714, 817
<i>See also Protective clothing and equipment</i>	
<b>Employees' duties</b>	736, 824
<b>Employers</b>	
duties regarding	
activities involving asbestos-containing products and materials	802–823
asbestos in workplaces	514–528
atmospheric monitoring	528, 812
control of risk, airborne asbestos fibres	205, 525–527, 808–811
demolitions	602–603
disposal of asbestos waste	818
exposure to asbestos (general)	202, 305
health and safety representatives	205
identification, presence of asbestos and related activities	205, 518–519, 603, 802–803
inaccessible areas	519–520, 603
independent contractors	203
information for employees, applicants	204, 822–823
medical examinations of employees	815–816
notification of occupier of risk	517
protective clothing and equipment	302, 810, 817, 819
records of results	515–516, 522–523, 602–603, 804–805
removal work in general	303
risk assessment	205, 516, 520–521, 602, 805–807
training, supervision of employees	204, 820, 823
use of asbestos, certain tools, equipment	305
work areas	813–814
notification of removal work to and by	729, 735, 821
provision of occupier's records of results to	507
removal work without licence by	207, 821
<i>See also Licences; Licence holders;</i>	
<b>Removal work with a licence</b>	
<b>Exemptions</b>	106–106B, Sch. 1A, Sch. 4
<b>Exposure standard</b>	
definition	105
occupiers', employers' duties (general)	201–202, 305
occupiers', employers' duties if risk of exceeding	513, 528, 815

---

*Occupational Health and Safety (Asbestos) Regulations 2003*  
S.R. No. 16/2003

---

<b><i>Subject</i></b>	<b><i>Regulation</i></b>
<b>Glove bags</b>	105, 725
<b>Health and safety management systems</b>	105, 402, 406, 415
<b>Health and safety representatives</b>	
employer's general duty to consult with rights, role regarding	205
activities involving asbestos	805, 807
removal work	710, 730
risks of asbestos in workplaces	520–521, 523, 528
<b>Independent contractors</b>	203
<b>Inquiries</b>	414
Laundering <i>See</i> <b>Protective clothing and equipment</b>	
<b>Licence holders</b>	
complaints against	414–415
definition	105
duties regarding removal work	
airborne asbestos fibre levels	711, 716
control of risk	708, 715, 722
Control Plans	105, 710, Sch. 2
decontamination facilities	714
disposal of asbestos waste	717, 724
emergency demolitions	605
information for job applicants, employees	704, 719
medical examinations for employees	706–707
notification of Authority	733–734, Sch. 3
protective clothing and equipment	712, 714, 717–718
records of results	709–710
removal in general	702
removal of friable asbestos	720–725
removal of non-friable asbestos	726–727
signs and barricades	713
supervisors	703, 721, 727
training, instruction	705, 719
unexpected situations	734
inquiries into	414
provision of occupier's records of results to	507
<i>See also</i> <b>Licences; Removal work with a licence</b>	
<b>Licences</b>	
amendments to	409
applications	402–403, Sch. 1
availability for inspection	411
cancellation	406, 414–417
changes in information provided	409, 410
deferral of issue	404–405
definition of Class A, Class B licences	105
details specified on	408
expiry	404, 408
fees	406, 410, Sch. 4
issue, refusal to issue	404–408
removal work authorised by	401
renewal, refusal to renew	410
required for removal work	303, 702

---

*Occupational Health and Safety (Asbestos) Regulations 2003*  
S.R. No. 16/2003

---

<b><i>Subject</i></b>	<b><i>Regulation</i></b>
review of decisions regarding	418
surrender	417
suspension	406, 414–417
terms and conditions	408, 412–413, 733–734
transitional provisions	419–421
<i>See also</i> <b>Licence holders</b>	
<b>Medical examinations</b>	706–707, 815–816
<b>Occupiers</b>	
duties regarding asbestos in workplaces	
atmospheric monitoring	513
control of risk	510–512
exposure to asbestos	201
identification, presence of asbestos	502–503
inaccessible areas	503–504
records of results	506–508, 602
removal work in general	303
risk assessment	504–505, 602
duties regarding demolitions	602, 604–605
notification of presence, risk of asbestos	517, 603
<b>OHS (Asbestos) Regulations 1992</b>	
approvals, determinations for removal under	406, 419–421
medical examinations under	706
revocation	104
<b>Paraoccupational air monitoring</b>	
definition	105
in relation to removal work	716, 723, 730–732
<b>Prohibitions</b>	
general exclusions	301
regarding asbestos, asbestos-containing material	
installation, replacement, re-use	312
manufacture	306
removal	303
sales, storage, supply, transport	307–310
tools, equipment used on	305
use	311
regarding contaminated protective clothing	302
<b>Protective clothing and equipment</b>	
decontamination	714, 817
disposal	714, 717, 817–818
laundering of clothing	714, 718, 801, 817, 819
licence holder's, employer's duty to provide	712, 810
removal from workplace	302, 714, 817
<b>Regulations</b>	
amendments to other Regulations	109
authorising provisions	102
commencement	103
objective	101
revocations	104
<b>Removal work</b>	105, 303

---

*Occupational Health and Safety (Asbestos) Regulations 2003*  
*S.R. No. 16/2003*

---

<b><i>Subject</i></b>	<b><i>Regulation</i></b>
<b>Removal work with a licence</b>	
airborne asbestos fibre levels	711, 716, 731–732
application of Part 7	701
before and after demolitions	604–605
Clearance Certificates	732
control of risk	708, 715, 722
Control Plans	105, 710, Sch. 2
employees' duties	736
friable asbestos	720–725, 730–731
inspection of asbestos removal area at end of	731
non-friable asbestos	726–727
notification obligations	729, 733–735, Sch. 3
occupier's, employer's duties in arranging for	511, 526, 604–605
paraoccupational air monitoring	716, 723, 730–732
person who commissioned work	105, 709–710, 728–733
records of results	507, 709–710
requirements in general	702
supervisors	105, 406, 408, 412, 703, 721, 727
transitional provisions	419–421
unexpected situations	734
wet method	722
<i>See also Licences; Licence holders</i>	
<b>Removal work without a licence</b>	
as activity to which Part 8 applies	801
before or after demolitions	604–605
requirements	207, 821
<b>Review</b>	418
Self-employed persons <i>See Employers</i>	
<b>Victorian WorkCover Authority</b>	106–106A, 108
<i>See also Licences</i>	

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