

Regulations made under s.58.

CONTROL OF ASBESTOS AT WORK REGULATIONS

Revoked by LN. 2007/037 as from 1.3.2007

(LN. 1997/049)

15.5.1997

Amending enactments	Relevant current provisions	Commencement date
LN. 1997/071	r.2(1)	3.7.1997
2003/034	rr.3A, 5, 6(1), 8, 9, 9A and 17	20.3.2003

EU Legislation/International Agreements involved:

Directive 83/477/EEC

Directive 89/686/EEC

Directive 90/394/EEC

Directive 91/382/EEC

Directive 93/42/EEC

Directive 98/24/EC

CONTROL OF ASBESTOS AT WORK REGULATIONS.

ARRANGEMENT OF REGULATIONS.

Regulation

1. Title.
2. Interpretation.
3. Duties under these Regulations.
- 3A. Duty to manage asbestos in non-domestic premises.
4. Identification of the type of asbestos.
5. Assessment of work which exposes employees to asbestos.
6. Plans of work.
7. Notification of work with asbestos.
8. Information, instruction and training.
9. Prevention or reduction of exposure to asbestos.
- 9A. Arrangements to deal with accidents, incidents and emergencies.
10. Use of control measures, etc.
11. Maintenance of control measures, etc.
12. Provision and cleaning of protective clothing.
13. Duty to prevent or reduce the spread of asbestos.
14. Cleanliness of premises and plant.
15. Designated areas.
16. Air monitoring.
17. Health records and medical surveillance.
18. Washing and changing facilities.
19. Storage, distribution and labelling of raw asbestos and asbestos waste.
20. Supply of products containing asbestos for use at work.
21. Exemption certificates.
22. Fees, charges, immunity and confidentiality.

SCHEDULE 1.

Particulars to be included in a notification.

SCHEDULE 2.

Relevant community directives.

SCHEDULE 3.

The labelling of raw asbestos, asbestos waste and products containing asbestos.

CONTROL OF ASBESTOS AT WORK REGULATIONS.

In exercise of the powers conferred on him by section 58 of the Factories Act, and all other enabling powers, and for the purpose of transposing into the law of Gibraltar Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work as amended to technical progress by Council Directive 91/382/EEC, and Council Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work in so far as it relates to asbestos, the Governor has made the following Regulations –

Title.

1. These Regulations may be cited as the Control of Asbestos at Work Regulations.

Interpretation.

2.(1) In these Regulations, unless the context shall otherwise require–

“action level” means one of the following cumulative exposures to asbestos over a continuous 12-week period when measured or calculated by a method approved by the competent authority, namely–

- (a) where the exposure is solely to chrysotile, 96 fibre-hours per millilitre of air; or
- (b) where exposure is to any other form of asbestos either alone or in mixtures including mixtures of chrysotile with another form of asbestos, 48 fibre-hours per millilitre of air; or
- (c) where both types of exposure occur separately during the 12-week period concerned, a proportionate number of fibre-hours per millilitre of air;

“adequate” means adequate having regard only to the nature and degree of exposure to asbestos and “adequately” shall be construed accordingly;

“approved” means approved for the time being in writing by the competent authority;

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

CONTROL OF ASBESTOS AT WORK REGULATIONS.

“asbestos area” and “respirator zone” shall be construed in accordance with regulation 15;

“the competent authority” means the person holding the office of Factories Inspector appointed from time to time under section 77 of the Factories Act.

“control limit” means one of the following concentrations of asbestos in the atmosphere when measured or calculated by a method approved by the competent authority, namely—

- (a) for chrysotile—
 - (i) 0.5 fibres per millilitre of air averaged over any continuous period of 4 hours;
 - (ii) 1.5 fibres per millilitre of air averaged over any continuous period of 10 minutes;
- (b) for any other form of asbestos either alone or in mixtures including mixtures of chrysotile with any other form of asbestos—
 - (i) 0.2 fibres per millilitre of air averaged over any continuous period of 4 hours;
 - (ii) 0.6 fibres per millilitre of air averaged over any continuous period of 10 minutes;

“the Directives” means Council Directive 83/477/EEC as amended to technical progress by Council Directive 91/382/EEC, and Council Directive 90/394/EEC.

- (2) For the purposes of these Regulations—
 - (a) any reference to an employee being exposed to asbestos shall be treated as a reference to the exposure of that employee to asbestos dust arising out of or in connection with any work with asbestos or with any product containing asbestos which is carried out by the employer; and
 - (b) in determining whether an employee is exposed to asbestos or whether the extent of such exposure exceeds the action level or any control limit, no account shall be taken of any respiratory protective equipment which, for the time being, is being worn by that employee.

CONTROL OF ASBESTOS AT WORK REGULATIONS.

(3) Unless otherwise provided for in these Regulations, words and terms used in the Directives shall, in these Regulations, have the meanings given to them in the Directives.

Duties under these Regulations.

3.(1) Where any duty is placed by these Regulations on an employer in respect of his employees, he shall, so far as is reasonably practicable, be under a like duty in respect of any other person who may be affected by the work activity, whether at work or not, except that the duties of the employer—

- (a) under regulation 8 (information, instruction and training) shall not extend to persons who are not his employees unless those persons are on the premises where the work is being carried out; and
- (b) under regulation 17 (health records and medical surveillance) shall not extend to persons who are not his employees.

(2) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and an employee.

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

Duty to manage asbestos in non-domestic premises.

3A.(1) Every employer shall ensure that a suitable and sufficient assessment is carried out as to whether asbestos is or is liable to be present in non-domestic premises occupied by him and in which persons work.

(2) It shall be the duty of every person who has, by virtue of any contract or tenancy, an obligation of any extent in relation to the maintenance or repair of—

- (a) the premises; or
- (b) any means of access thereto or egress therefrom,

to take such measures as are necessary, so far as is reasonable given the nature and extent of that obligation, to enable the employer to comply with the requirements of this regulation.

(3) In making the assessment—

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (a) such steps as are reasonable in the circumstances shall be taken;
and
 - (b) the condition of any asbestos which is, or has been assumed to be, present in the premises shall be considered.
- (4) Without prejudice to the generality of sub-regulation (3), the employer shall ensure that—
- (a) account is taken of building plans or other relevant information and of the age of the premises; and
 - (b) an inspection is made of those parts of the premises which are reasonably accessible.
- (5) The employer shall ensure that the assessment is reviewed forthwith if—
- (a) there is reason to suspect that the assessment is no longer valid;
or
 - (b) there has been a significant change in the premises to which the assessment relates.
- (6) The employer shall ensure that the conclusions of the assessment and every review are recorded.
- (7) Where the assessment shows that asbestos is or is liable to be present in any part of the premises the employer shall ensure that—
- (a) a determination of the consequent risk is made;
 - (b) a written plan identifying those parts of the premises concerned is prepared; and
 - (c) the measures which are to be taken for managing the consequent risk are specified in the written plan.
- (8) The measures to be specified in the plan for managing the risk shall include adequate measures for—
- (a) monitoring the condition of any asbestos or any substance containing or suspected of containing asbestos;
 - (b) ensuring any asbestos or any such substance is properly maintained or where necessary safely removed; and

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (c) ensuring that information about the location and condition of any asbestos or any such substance is—
- (i) provided to every person liable to disturb it, and
 - (ii) made available to the emergency services.
- (9) The employer shall ensure that—
- (a) the plan is reviewed and revised at regular intervals, and forthwith if—
 - (i) there is reason to suspect that the plan is no longer valid, or
 - (ii) there has been a significant change in the premises to which the plan relates;
 - (b) the measures specified in the plan are implemented; and
 - (c) the measures taken to implement the plan are recorded.
- (10) In any proceedings for an offence for a contravention of any of the provisions of this regulation it shall, subject to sub-regulation (11), be a defence for the person charged to prove—
- (a) that the commission of the offence was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and
 - (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (11) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in sub-regulation (10) unless, within a period ending seven clear days before the hearing to determine mode of trial he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.
- (12) For the purposes of this regulation, an employer shall be deemed to occupy the common parts of premises where he has control over maintenance or repair activities in those parts of those premises.
- (13) In this regulation, a reference to—
- (a) “the assessment” is a reference to the assessment required by sub-regulation (1);

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (b) “the premises” is a reference to the non-domestic premises referred to in sub-regulation (1); and
- (c) “the plan” is a reference to the plan required by sub-regulation (7).

Identification of the type of asbestos.

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

- (a) before commencing that work, he has identified, by analysis or otherwise, the type of asbestos involved in the work; or
- (b) he has assumed that the asbestos is not chrysotile alone and for the purposes of these Regulations has treated it accordingly.

Assessment of work which exposes employees to asbestos.

5.(1) An employer shall not carry out work which is liable to expose his employees to asbestos unless he has—

- (a) made a suitable and sufficient assessment of the risk created by that exposure to the health of those employees and of the steps that need to be taken to meet the requirements of these Regulations;
- (b) recorded the significant findings of that assessment; and
- (c) implemented the steps referred to in paragraph (a).

(2) Without prejudice to the generality of sub-regulation (1), the assessment shall—

- (a) subject to regulation 4, identify the type of asbestos to which employees are liable to be exposed;
- (b) determine the nature and degree of exposure which may occur in the course of the work;
- (c) consider the effect of control measures which have been or will be taken in accordance with regulation 9;
- (d) consider the results of monitoring of exposure in accordance with regulation 16;
- (e) set out the steps to be taken to prevent or reduce to the lowest level reasonably practicable that exposure;

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (f) consider the results of relevant medical surveillance; and
 - (g) include such additional information as the employer may need in order to complete the assessment.
- (3) The assessment shall be reviewed regularly and forthwith if–
- (a) there is reason to suspect that the existing assessment is no longer valid;
 - (b) there is a significant change in the work to which the assessment relates; or
 - (c) the results of any monitoring carried out pursuant to regulation 16 show it to be necessary,

and where, as a result of the review, changes to the assessment are required, those changes shall be made.

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

(5) In this regulation, a reference to “the assessment” is a reference to the assessment required by sub-regulation (1)(a).

Plans of work.

6.(1) An employer shall not undertake any work with asbestos unless he has prepared a suitable written plan of work (hereinafter referred to in this regulation as “the plan of work”) detailing how that work is to be carried out.

(2) The plan of work made in pursuance of subregulation (1) shall include in particular details of–

- (a) the nature and probable duration of the work;
- (b) the location of the place where the work is to be carried out;
- (c) the methods to be applied where the work involves the handling of asbestos or materials containing asbestos;
- (d) the characteristics of the equipment to be used for–

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (i) the protection and decontamination of those carrying out the work;
- (ii) the protection of other persons on or near the work site.

Notification of work with asbestos.

7.(1) This regulation shall apply to any work in which an employee is or is liable to be exposed to asbestos unless the extent of that exposure neither exceeds nor is liable to exceed the action level.

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

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

(4) Where the work with asbestos was commenced before the date of coming into effect of these Regulations or is commenced within 56 days after that date, it shall be sufficient compliance with subregulation (2) if the employer notifies the competent authority in accordance with subregulation (2) within 28 days after the coming into effect of these Regulations.

Information, instruction and training.

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

- (a) who are or are liable to be exposed to asbestos, or who supervise such employees, so that they are aware of—
 - (i) the results of the assessment required by regulation 5(1)(a),
 - (ii) the risks to health from asbestos,
 - (iii) the precautions which should be observed, and
 - (iv) the relevant control limit and action level,

in order to safeguard themselves and other employees; and

CONTROL OF ASBESTOS AT WORK REGULATIONS.

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

(2) The information, instruction and training required by sub-regulation (1) shall be—

- (a) given at regular intervals;
- (b) adapted to take account of significant changes in the type of work carried out or methods of work used by the employer; and
- (c) provided in a manner appropriate to the nature and degree of exposure identified by the assessment required by regulation 5(1)(a).

Prevention or reduction of exposure to asbestos.

9.(1) Every employer shall—

- (a) prevent the exposure of his employees to asbestos so far as is reasonably practicable;
- (b) where it is not reasonably practicable to prevent such exposure—
 - (i) reduce the exposure of his employees to asbestos to the lowest level reasonably practicable by measures other than the use of respiratory protective equipment, and
 - (ii) ensure that the number of his employees who are exposed to asbestos is as low as is reasonably practicable.

(2) Without prejudice to the generality of sub-regulation (1), where employees may be exposed to asbestos in a manufacturing process or in the installation of a product, prevention of such exposure to asbestos shall be achieved, where it is practicable, by substituting for asbestos a substance which, under the conditions of its use, does not create a risk to the health of his employees or creates a lesser risk than that created by asbestos.

(3) Where it is not practicable to avoid the use of asbestos by substitution in accordance with sub-regulation (2), the measures referred to in sub-regulation (1)(b)(i) shall include, in order of priority—

- (a) the design and use of appropriate work processes, systems and engineering controls and the provision and use of suitable work

CONTROL OF ASBESTOS AT WORK REGULATIONS.

equipment and materials in order to avoid or minimise the release of asbestos; and

- (b) the control of exposure at source, including adequate ventilation systems and appropriate organizational measures.

(4) Where, in pursuance of sub-regulation (1), it is not reasonably practicable to reduce the exposure of an employee to below the control limits which apply to that exposure, then, in addition to taking the measures required by that sub-regulation the employer shall provide that employee with suitable respiratory protective equipment which will reduce the concentration of asbestos in the air inhaled by the employee (after taking into account the effect of that respiratory protective equipment) to a concentration which is as low as is reasonably practicable and in any event below those control limits.

(5) Any personal protective equipment provided by an employer in pursuance of this regulation shall conform to a standard approved by the Minister in accordance with the Personal Protective Equipment Regulations 1996 (Legal Notice 31 of 1996) relating to personal protective equipment.

(6) Every employer shall take immediate steps to remedy the situation where the concentration of asbestos in air inhaled by any employee exceeds the relevant control limit.

(7) Where asbestos is used in a work process, or is produced by a work process, the employer shall ensure that the quantity of asbestos and materials containing asbestos at the premises where that work is carried out is reduced to as low a level as is reasonably practicable.

Arrangements to deal with accidents, incidents and emergencies.

9A.(1) Subject to sub-regulation (3) in order to protect the health of his employees from an accident, incident or emergency related to the use of asbestos in a work process or to the removal or repair of asbestos-containing materials at the workplace, the employer shall ensure that—

- (a) procedures, including the provision of relevant safety drills (which shall be tested at regular intervals), have been prepared which can be put into effect when such an event occurs;
- (b) information on emergency arrangements, including—
- (i) details of relevant work hazards and hazard identification arrangements, and
 - (ii) specific hazards likely to arise at the time of an accident, incident or emergency, is available; and

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (c) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs.
- (2) The employer shall ensure that information on the procedure and systems required by sub-regulation (1)(a) and (c) and the information required by sub-regulation (1)(b) is–
- (a) made available to relevant accident and emergency services, both within and outside the workplace, to enable those services, whether internal or external to the workplace, to prepare their own response procedures and precautionary measures; and
 - (b) displayed at the workplace, if this is appropriate.
- (3) Sub-regulation (1) shall not apply where–
- (a) the results of the assessment required by regulation 5(1)(a) show that, because of the quantity of asbestos present at the workplace, there is only a slight risk to the health of employees; and
 - (b) the measures taken by the employer to comply with the duty under regulation 9(1) are sufficient to control that risk.
- (4) In the event of an accident, incident or emergency related to the unplanned release of asbestos at the workplace, the employer shall ensure that–
- (a) immediate steps are taken to–
 - (i) mitigate the effects of the event,
 - (ii) restore the situation to normal, and
 - (iii) inform any person who may be affected; and
 - (b) only those persons who are responsible for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with–
 - (i) appropriate respiratory protective equipment and protective clothing, and

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (ii) any necessary specialised safety equipment and plant, which shall be used until the situation is restored to normal.

Use of control measures, etc.

10.(1) Every employer who provides any control measure, personal protective equipment or other thing or facility pursuant to these Regulations shall ensure, so far as is reasonably practicable, that it is properly used or applied as the case may be.

(2) Every employee shall make full and proper use of any control measure, personal protective equipment or other thing or facility provided, pursuant to these Regulations and, if he discovers any defect therein, he shall report it forthwith to his employer.

Maintenance of control measures, etc.

11.(1) Every employer who provides any control measure, personal protective equipment or other thing or facility pursuant to these Regulations, shall ensure that it is maintained in a clean and efficient state, in efficient working order, and in good repair, and, in the case of exhaust ventilation equipment, is also regularly examined and tested at suitable intervals by a competent person.

(2) Every employer shall make a suitable record of work carried out in accordance with subregulation (1) which shall be kept for at least five years from the date on which it was made.

Provision and cleaning of protective clothing.

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

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

(3) The cleaning required by subregulation (2) shall be carried out on the premises where the work with asbestos is being done or in a suitably equipped laundry and, protective clothing which has been used and is to be removed from those premises (whether for cleaning, further use or disposal) shall, before being removed, be packed in a suitable container which shall be labelled in accordance with the provisions of Schedule 3 as if it were a product containing asbestos or, in the case of protective clothing intended for disposal as waste, in accordance with regulation 19(3).

CONTROL OF ASBESTOS AT WORK REGULATIONS.

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

Duty to prevent or reduce the spread of asbestos.

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

Cleanliness of premises and plant.

14.(1) Every employer who undertakes work which exposes his employees to asbestos, shall ensure that the premises or those parts of the premises where that work is carried out and the plant used in connection with work, are kept in a clean state and, in particular, where work with asbestos has been completed, the premises or those parts of the premises where the work was carried out are thoroughly cleaned.

(2) Where a manufacturing process which gives rise to asbestos dust is carried out in a building, the employer shall ensure that any part of the building in which the process is carried out is—

- (a) so designed and constructed as to facilitate cleaning; and
- (b) is equipped with an adequate and suitable vacuum cleaning system which shall, where reasonably practicable, be a fixed system.

Designated areas.

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

- (a) an asbestos area, where the exposure to asbestos of an employee who worked in that area for the whole of his working time would exceed or would be liable to exceed the action level;
- (b) a respirator zone, where the concentration of asbestos in that area would exceed or would be liable to exceed any control limit.

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

- (a) that the area is an asbestos area or a respirator zone or both, as the case may be; and

CONTROL OF ASBESTOS AT WORK REGULATIONS.

(b) in the case of a respirator zone, that the exposure of an employee who enters it is liable to exceed a control limit and, if it does, that respiratory protective equipment must be worn.

(3) The employer shall not permit any employee, other than an employee who by reason of his work is required to be in an area designated in accordance with subregulation (1), to enter or remain in any such area, and only employees who are so permitted shall enter or remain in any such area.

(4) Every employer shall take suitable steps to ensure that—

(a) his employees do not eat, drink or smoke in any area designated as an asbestos area or a respirator zone; and

(b) in such case, arrangements are made for such employees to eat or drink in some other place.

Air monitoring.

16.(1) Every employer shall take adequate steps to monitor the exposure of his employees to asbestos where such monitoring is appropriate for the protection of the health of those employees.

(2) The employer shall keep a suitable record of any monitoring carried out in accordance with subregulation (1) and that record or a suitable summary thereof shall be kept—

(a) in a case where exposure is such that a health record is required to be kept under regulation 17, for at least 40 years;

(b) in any other case, for at least five years.

Health records and medical surveillance.

17.(1) Every employer shall ensure that a health record containing particulars approved by the Factories Inspector relating to each of his employees who is exposed to asbestos is maintained unless the exposure of that employee does not exceed the action level and that that record or a copy thereof is kept available in a suitable form for at least 40 years from the date of the last entry made in it.

(2) Every employer shall ensure that each of his employees who is exposed to asbestos is under adequate medical surveillance by a relevant doctor unless the exposure of that employee does not exceed the action level.

CONTROL OF ASBESTOS AT WORK REGULATIONS.

(3) The medical surveillance required by sub-regulation (2) shall include—

- (a) a medical examination not more than 2 years before the beginning of such exposure; and
- (b) periodic medical examinations at intervals of not more than 2 years or such shorter time as the relevant doctor may require while such exposure continues,

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

(4) Where an employee has been examined in accordance with sub-regulation (3), the relevant doctor shall issue to the employer and that employee a certificate stating that he has been so examined and the date of the examination and the employer shall keep that certificate or a copy thereof for at least 4 years from the date on which it was issued.

(5) An employee to whom this regulation applies shall, when required by his employer and at the cost of the employer, present himself during his working hours for such examination and tests as may be required for the purposes of sub-regulation (3) and shall furnish the relevant doctor with such information concerning his health as the relevant doctor may reasonably require.

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

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

(8) The employer shall—

- (a) on reasonable notice being given, allow an employee access to his personal health record;
- (b) provide the Factories Inspector with copies of such personal health records as he may require; and
- (c) if he ceases to trade, notify forthwith the Factories Inspector thereof in writing and make available to the Factories Inspector all personal health records kept by him.

(9) Where, as a result of medical surveillance, an employee is found to have an identifiable disease or adverse health effect which is considered by

CONTROL OF ASBESTOS AT WORK REGULATIONS.

a relevant doctor to be the result of exposure to asbestos at work the employer of that employee shall—

- (a) ensure that a suitable person informs the employee accordingly and provides the employee with information and advice regarding further medical surveillance;
- (b) review the assessment required by regulation 5(1)(a);
- (c) review any measure taken to comply with regulation 10, taking into account any advice given by a relevant doctor or by the Factories Inspector;
- (d) consider assigning the employee to alternative work where there is no risk of further exposure to asbestos, taking into account any advice given by a relevant doctor; and
- (e) provide for a review of the health of every other employee who has been similarly exposed, including a medical examination (which shall include a specific examination of the chest) where such an examination is recommended by a relevant doctor or by the Factories Inspector.

(10) “Relevant doctor” means a registered medical practitioner appointed for the time being in writing by the Minister for the purpose of this regulation.

Washing and changing facilities.

18.(1) Every employer shall provide for any of his employees who is exposed to asbestos adequate and suitable—

- (a) washing and changing facilities;
- (b) where he is required to provide protective clothing, facilities for the storage of—
 - (i) that protective clothing, and
 - (ii) personal clothing not worn during working hours;
- (c) where he is required to provide respiratory protective equipment, facilities for the storage of that equipment.

(2) The facilities provided under subregulation (1) for the storage of personal protective clothing, of personal clothing not worn during working hours and of respiratory protective equipment shall be separate from each other.

Storage, distribution and labelling of raw asbestos and asbestos waste.

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

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

unless it is in a suitable and sealed container clearly marked in accordance with subregulations (2) and (3) showing that it contains asbestos.

(2) Raw asbestos shall be labelled in accordance with the provisions of Schedule 3.

(3) Waste containing asbestos shall be labelled in accordance with the provisions of Schedule 3.

Supply of products containing asbestos for use at work.

20.(1) Subject to subregulation (2), a person shall not supply any product which contains asbestos, being an article or substance for use at work, unless that product is labelled in accordance with the provisions of Schedule 3.

(2) Where a product contains a component containing asbestos it shall be sufficient compliance with this regulation if such component is labelled in accordance with the provisions of Schedule 3, except that where the size of such a component makes it impossible for a label to be fixed to the component, neither the component nor the product need be labelled.

Exemption certificates.

21.(1) Subject to subregulation (2) of this regulation and to any provisions imposed by the Communities the competent authority may, by a certificate in writing, exempt any person or class of persons from all or any of the requirements or prohibitions imposed by these Regulations, and any such exemption may be granted subject to conditions and to a limit of time, and may be revoked by a certificate in writing at any time. Any costs of the competent authority of any such application for exemption shall be wholly met by the applicant.

(2) The competent authority shall not grant any such exemption unless having regard to the circumstances of the case and in particular to—

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (a) the conditions, if any, which it proposes in its discretion to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case;

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it, and that any provision imposed by the European Communities in respect of the encouragement of improvements in the safety and health of workers at work will be satisfied.

Fees, charges, immunity and confidentiality.

22.(1) The competent authority may make, and from time to time devise, a scheme prescribing fees payable in respect of any of its functions under these Regulations.

- (2) A scheme under this regulation may, in particular—
 - (a) provide for different fees or charges to be payable in different cases or circumstances;
 - (b) provide for the times at which, and the manner in which, payments are to be made; and
 - (c) make such incidental, supplementary and transitional provision as appears to the competent authority to be appropriate.

(3) The competent authority shall so frame a scheme under this regulation as to secure, so far as practicable, that the amounts payable under it will be sufficient, taking one financial year with another, to cover the expenditure of the competent authority in discharging its functions under these Regulations in relation to consents.

(4) Neither the competent authority nor any person appointed by the competent authority, nor any of its members, officers, servants or agents shall be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any powers or functions conferred on the competent authority by these Regulations, unless the act or omission is shown to have been in bad faith.

- (5) Save as may be otherwise provided—
 - (a) any information from which an individual or body can be identified which is acquired by the competent authority in the course of carrying out its functions shall be regarded as

CONTROL OF ASBESTOS AT WORK REGULATIONS.

confidential by the competent authority and by its members, officers, servants and agents; and

- (b) no such information as is referred to in subparagraph (a) shall be disclosed, without the consent of every individual who, and every body which, can be identified from that information except that its disclosure appears to the competent authority to be necessary—
 - (i) to enable the competent authority to carry out any of its statutory functions; or
 - (ii) in the interests of the prevention or detection of crime; or
 - (iii) in connection with the discharge of any international obligation to which Gibraltar is subject; or
 - (iv) to assist, in the interest of the public, any authority which appears to the competent authority to exercise in a place outside Gibraltar functions corresponding to those of the competent authority; or
 - (v) to comply with the directions of the Supreme Court.

SCHEDULE 1

Regulation 7(2)

PARTICULARS TO BE INCLUDED IN A NOTIFICATION

The following particulars are to be included in a notification made in accordance with regulation 7(2), namely—

- (a) the name, address and telephone number of—
 - (i) the notifier; and
 - (ii) his usual place of business;
- (b) a brief description of—
 - (i) the type(s) of asbestos used or handled (crocidolite, amosite, chrysotile or other); and
 - (ii) the maximum quantity of asbestos held on the premises at any one time; and
 - (iii) the activities or processes involved; and

CONTROL OF ASBESTOS AT WORK REGULATIONS.

- (iv) the products manufactured, (where applicable);
- (c) the date of commencement of the work activity where work has yet to begin.

SCHEDULE 2

Regulation 9(5)

RELEVANT COMMUNITY DIRECTIVES

1. Council Directive 89/686/EEC on the approximation of the laws of the member States relating to personal protective equipment (OJ No L399 30.12.89 p 18).
2. Council Directive 93/42/EEC concerning medical devices (OJ No L169 12.7.93 p 1).

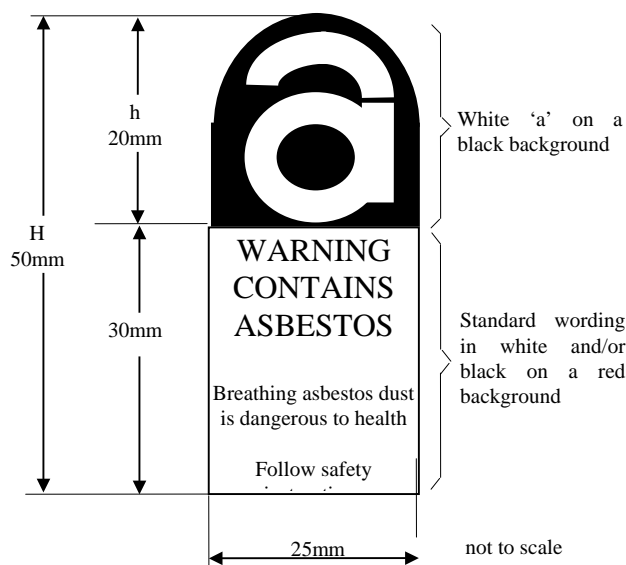
SCHEDULE 3

Regulations 19(2) and (3) and 20

THE LABELLING OF RAW ASBESTOS, ASBESTOS WASTE AND PRODUCTS CONTAINING ASBESTOS

1. (1) Subject to subparagraphs (2) and (3) of this paragraph, the label to be used on—
 - (a) raw asbestos;
 - (b) asbestos waste; and
 - (c) products containing asbestos (including used protective clothing to which regulation 10(2) applies);

shall be in the form and in the colours of the following diagram and shall comply with the specifications set out in paragraphs 2 and 3.



(2) In the case of any product containing crocidolite, the words "contains asbestos" shown in the diagram shall be replaced by the words "contain crocidolite/blue asbestos".

(3) Where the label is printed directly onto a product, a single colour contrasting with the background colour may be used.

2. The dimensions in millimetres of the label shall be those shown on the diagram, except that larger measurements may be used, but in that case the dimension of the label indicated as h , on the diagram in paragraph 1(1) shall be 40 per cent of the dimension indicated as H on that diagram.

3. The label shall be clearly and indelibly printed so that the words in the lower half of the label can be easily read, and those words shall be printed in black or white.

4.(1) Without prejudice to the provisions of any other provision relating to the health and safety of employees at work, where a product may undergo processing or finishing it shall bear a label containing any safety instructions appropriate to the particular product and in particular the following instructions—

“operate if possible out of doors or in a well ventilated place”;

“preferably use hand tools or low speed tools equipped, if necessary, with an appropriate dust extraction facility. If high speed tools are used, they should always be so equipped”,

“if possible, dampen before cutting or drilling”,

CONTROL OF ASBESTOS AT WORK REGULATIONS.

“dampen dust and place it in a properly closed receptacle and dispose of it safely”.

(2) Any additional safety information given on any label shall not detract from or contradict the safety information given in accordance with subparagraph (1).

5.(1) Labelling of packaged and unpackaged products in accordance with the foregoing paragraphs shall be effected by means of—

- (a) an adhesive label firmly affixed to the product or its packaging, as the case may be;
- (b) a tie-on label firmly attached to the product or its packaging, as the case may be; or
- (c) direct printing onto the product or its packaging, as the case may be.

(2) Where in the case of an unpackaged product, it is not reasonably practicable to comply with the provisions of subparagraph (1), the label shall be printed on a suitable sheet accompanying the product.

(3) Labelling of raw asbestos and asbestos waste shall be effected in accordance with subparagraphs 1(a) or (c).

(4) For the purposes of this Schedule, a product supplied in loose plastic or other similar wrapping (including plastic and paper bags) but no other packaging, shall be treated as being supplied in a package whether the product is placed in such wrapping at the time of its supply or was already so wrapped before that time. But, no wrapping in which a product is placed at the time of its supply shall be regarded as packaging if any product contained in it is labelled in accordance with the requirements of this Schedule or any other packaging in which that product is contained is so labelled.