

Smoking

Rest rooms and areas should protect non-smokers from discomfort caused by tobacco smoke.

Please note that smoking in enclosed workplaces is banned in England, Scotland, Wales, Northern Ireland and the Republic of Ireland.

Rest facilities must be provided for pregnant women and nursing mothers. (**Regulation 25**).

Safety Reps' Action Points

Even though these regulations cover fundamental safety and welfare issues many employers fail to comply fully with them and they are very rarely enforced by the authorities. Unite can take action by:

- Ensuring safety representatives carry out regular inspections.
- Calling on the employer to ensure that suitable training and education is provided on health and safety.
- Bringing all departures from the legal standards to the attention of their employers and asking for remedial action to be taken.
- Ensuring all incidents, accidents and injuries are reported in the accident book.
- Calling in the enforcement authorities if the management persistently fails to meet the minimum standards.
- Organise through the union to demand satisfactory conditions.

Control of Asbestos Regulations 2006 (CAW 2006)

The Control of Asbestos Regulations 2006 provide a single set of regulations for the control of asbestos.

Key Points

A single control limit

There is **no action level**. There is a single Control Limit of 0.1f/cm³ and a Short Term Exposure Limit (STEL - ACOP standard, not in the regulations) of 0.6 f/cm³ measured over 10 minutes. The Control Limit is a level of asbestos fibres in air that, so far as is reasonably practicable, should not be exceeded. No-one's personal exposure should ever go above this limit when measured over four hours, in line with current practice, which is equivalent to the directive's 0.1 f/cm³, if the shift is eight hours long.

Employers using their own workers on their own premises are no longer exempt from the licensing requirements

Mandatory training requirements for anyone liable to be exposed to asbestos. Employees are entitled to a copy of their training certificate, and to be given the results of tests such as face-fit test, air monitoring, medical examination etc.

A requirement to analyse the concentration of asbestos in the air using the 1997 World Health Organisation recommended method of measurement.

Changes to the licensing regime

De-licensing of work involving removal of textured coatings.

Most work with textured decorative coatings containing asbestos e.g. "artex" has been removed from the licensing regime. Unite other unions and many employers strongly opposed this move – these materials are found in millions of buildings. Relaxing the licensing regime does NOT mean that work with textured coatings is safe.

The requirement to notify work to the enforcing authority and the requirement for medical surveillance of workers at present does not apply to certain specified types of work where (a) the worker exposure is sporadic and of low intensity and (b) it is clear from the risk assessment that the STEL will not be exceeded.

No exposure to asbestos can be considered to be sporadic and of low intensity if the concentration of asbestos in the atmosphere is liable to exceed 0.6 fibres per cm³ of air measured over 10 minutes (this is set out in the ACOP L143, para 32).

Risk assessment

All work with asbestos containing materials, including textured coatings, must be undertaken by trained workers following a risk assessment and in accordance with appropriate controls to prevent exposure to asbestos fibres. The approved code of practice to the regulations describes how to go about removing them safely.

A summary of the regulations

The Control of Asbestos Regulations 2006 apply to all work with asbestos materials carried out by employers, the self-employed and employees.

Here is a brief summary of the most important regulations. This is not the full text and you should consult the regulations for full details.

Reg 4: Duty to manage asbestos in buildings

Whoever has control of a building has a duty to manage asbestos there.

This means they must:

- Carry out a risk assessment to find out if asbestos is present or liable to be present – this should include looking at of the building plans, and inspecting all the reasonably accessible parts of the building.

- Write down the assessment and its conclusions – and any subsequent review of the assessment.
 - If asbestos is present or liable to be present decide what risk it poses, make a written plan identifying where it is, and note in the plan the measures to be taken to manage the risk.
 - The written plan must include adequate measures for:
 - monitoring the condition of the asbestos or any substance suspected of containing asbestos
 - ensuring it is properly maintained or where necessary safely removed,
 - ensuring that information about the location of the asbestos or substance suspected of containing asbestos is provide to anyone likely to disturb it (e.g. maintenance workers such as electricians, buildings renovators) and to the emergency services.
 - Ensure that the plan is reviewed and revised at regular intervals, and immediately if the plan is no longer valid or there has been a significant change to the premises.
 - Ensure that the plan is implemented and the implementation measures taken are written down.
- (see above for the definition given at Para 32 of the ACOP)
- The risk assessment shows that exposure of any employee will not exceed the control limit; and
 - The work involves short, non-continuous maintenance activities, removal of materials in which the asbestos fibres are firmly linked in a matrix, encapsulation or sealing of asbestos-containing materials which are in good condition or air monitoring and control and the collection and analysis of samples to ascertain whether a specific material contains asbestos.

Licensed contractors

Although a licence may not always be required, the Control of Asbestos Regulations 2006 still require employers to carry out risk assessments and put in place control measures to prevent exposure of employees or members of the public to asbestos. The work still needs to be done in compliance with the controls required under CAW 2006 and the employer should be able to demonstrate that whoever does the work is complying with these requirements.

Licensed contractors may have better experience, organisation and discipline relating to work with asbestos. Safety reps can ask their employer to use a licensed contractor for all types of work with asbestos even if it is not expressly required by the regulations.

A list of licensed contractors is available from the HSE Licensing Unit which has dedicated pages on the HSE website.

Reg 5: Identification of the presence of asbestos

An employer must not carry out any work on any premises which may expose employees to asbestos unless they have found out whether asbestos is present or liable to be present, or assumes that it is present, and observes the relevant provisions of the regulations.

Reg 6: Assessment of work which exposes employees to asbestos

An employer cannot carry out work which is liable to expose their employees to asbestos unless they have done a risk assessment, recorded the findings, and decided what steps are to be taken to prevent exposure or reduce it to the lowest level reasonably practicable.

Reg 7: Plans of work

The employer must prepare a written plan of the work to be done.

Reg 8: Licensing of work with asbestos

An employer cannot undertake any work with asbestos unless they have obtained a licence from the HSE. In practice this will cover most work with asbestos. But there are some exceptions (Reg 3(2)). These are:

- The exposure of employees to asbestos is sporadic and of low intensity;

Reg 9: Notification of work with asbestos

An employer cannot undertake any work with asbestos unless they have notified the enforcing authority (HSE or EHO) – there are some exceptions which are the same as those listed under Reg 8.

Reg 10: Information, Instruction and Training

Every employer must provide adequate information, instruction and training to employees, including supervisors, who are exposed or liable to be exposed to asbestos.

Reg 11: Prevention or reduction of exposure to asbestos

Every employer must prevent the exposure of their employees to asbestos so far as reasonably practicable,

and where exposure cannot be prevented, use control measures to reduce exposure to the lowest level practicable. In addition, suitable respiratory equipment of a standard approved by the Health and Safety Executive must be provided.

Every employer must ensure that no employee is exposed to asbestos over the control limit, and if the control limit is exceeded then they must tell the employees concerned and take measures to ensure it is not exceeded again.

Reg 12: Use of control measures

Every employer must ensure that the control measures are properly used or applied

Every employee must make full and proper use of any control measure (eg RPE or PPE), ensure it is returned after use and report any defects.

Reg 13: Maintenance of control measures

Every employer must ensure that plant and equipment including RPE/PPE is maintained properly and kept in good repair, and regularly review systems of work and supervision. Exhaust ventilation equipment must be tested and examined at regular intervals and records kept of each examination/testing and repairs for at least five years.

Reg 14: Provision and cleaning of protective clothing

Every employer must provide adequate and suitable protective clothing and ensure that it is either disposed of properly as asbestos waste, or cleaned.

Reg 15: Arrangements to deal with accidents, incidents and emergencies

Every employer must ensure that procedures are in place for emergencies. They must also ensure that if there is an unplanned release of asbestos at the workplace, immediate remedial steps are taken.

Reg 16: Duty to prevent or reduce the spread of asbestos

Every employer must prevent or reduce to the lowest level practicable the spread of any asbestos.

Reg 22: Health records and medical surveillance

This includes the following (unless the exceptions noted under Reg 8 apply):

- Employer must maintain a health record for every employee and keep it for 40 years.
- Employer must ensure that every employee is kept under surveillance by a relevant doctor.
- Surveillance must include a medical examination (including the chest) not more than two years before the start of asbestos exposure, and further examinations at no more than two-yearly intervals.

- Employer must pay for these medical examinations.
- Employer must give the doctor access to any records they have to keep under the Regulations if they request them.
- Employees must attend these examinations when requested by the employer.
- Employees are entitled to have access to their medical records.

Reg 23: Washing and changing facilities

Employers must provide adequate washing and changing facilities, and facilities for storing PPE, RPE and personal clothing – which must all be separate from each other.

There are also requirements for the employer to keep premises clean, seal and label asbestos waste, carry out and record air monitoring, designate asbestos areas and respirator zones, and make arrangements for employees to have separate areas for eating, drinking and smoking, ensuring competent persons are used. Standards are set for analysis of materials.

Other regulations cover prohibitions of exposure to asbestos and, importation, supply or use of asbestos and requirements for labelling of products containing asbestos.

Safety Reps' Action Points

- Never assume your workplace is asbestos free unless you are absolutely certain.
- Do not start work until a risk assessment has been carried out.
- Ensure the employer surveys the premises for asbestos, carries out risk assessments and draws up an action plan, in consultation with workers, to deal with asbestos if it is found or disturbed.
- Make sure you are involved in all risk assessments and are given copies of these and the plans of work.
- Stop any job immediately if you suspect asbestos is present.
- If the work is being carried out on non-domestic premises which are not your employer's, has the person in control of the building provided your employer with their written plan identifying where asbestos is to be found and given you a copy?
- Ensure all workers are kept informed about the risks associated with asbestos and control/prevention measures.
- Ensure all workers are provided with appropriate training about the new regulations.
- Ensure that the workforce is provided with appropriate protective equipment including respiratory equipment.
- Insist that all work with asbestos complies with Control of Asbestos Regulations 2006.

Compensation for personal injuries

Asbestos exposure

The union provides a comprehensive compensation service, through our solicitors, for members and retired members who have developed ill-health caused by exposure to asbestos. There are very strict time limits to pursue claims. You should not delay in seeking advice, however long ago you were exposed to asbestos.

Pleural plaques scheme

The right to sue for compensation for pleural plaques – a scarring of the lining of the lungs caused by asbestos – was ended by a House of Lords ruling on 17 October 2007 in a test case backed by Unite.

The union was at the forefront of a political campaign which resulted in the Labour government announcing in February that payments of up to £5,000 will be made to a limited number of pleural plaques sufferers who had brought but not resolved a legal claim prior to the House of Lords decision.

Unite successfully argued for the widest possible access to the scheme so that members who were diagnosed with pleural plaques and had taken up a claim through the union's legal service before 17 October 2007 would qualify for a payment.

The member must not have resolved the pleural plaques claim or received any interim payments in the claim for £5,000 or more. No payment will be made under the scheme if the member has died.

Members who may be entitled to a payment will be helped to make a claim by the union's solicitors. There will be no cost involved and any scheme payment obtained by the union's solicitors will be paid to the member in full, without deduction. Members who have not yet applied should immediately contact the union solicitor who was dealing with the claim prior to October 2007. The deadline to apply to the scheme is **1 August 2011**, so members should act now without delay.

The scheme only applies to pleural plaques cases in England and Wales. In Scotland legislation was introduced to preserve the right to compensation for pleural plaques but is being challenged in the Courts by the insurers. The Northern Ireland Assembly has recently introduced a Bill to compensate people with pleural plaques but at present claims cannot be pursued there because of the House of Lords decision.

For more information about all compensation claims contact your Regional Official without delay.