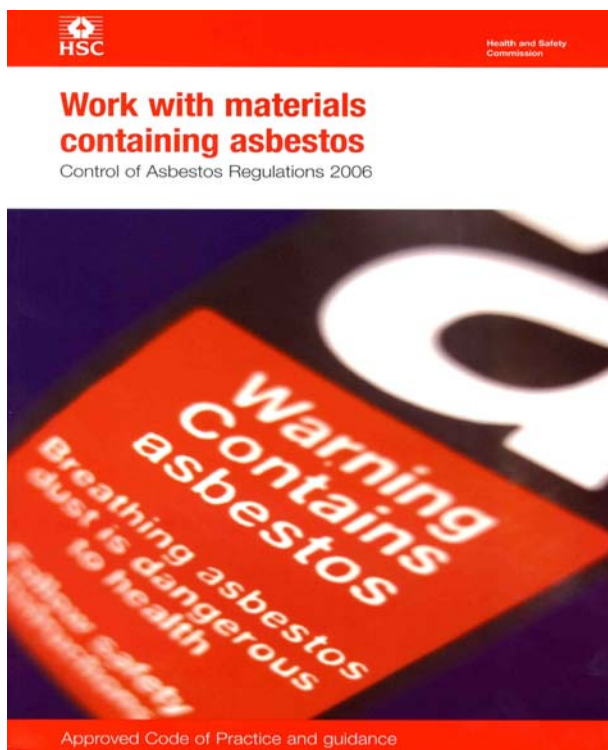




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Control of Asbestos Regulations 2006

A change in the law relating to when an Asbestos Licence is required Training & Monitoring



A Change in the Law – a simple guide

On 13 November 2006, the Control of Asbestos Regulations 2006 (CAR 2006) came into force. Amongst other aspects, one change has significantly altered the approach to determining whether asbestos removal work is licensable or not.

Most work with asbestos will still need to be undertaken by a licensed contractor but any decision will now be determined by the risk.

The most significant change concerns the removal of asbestos containing decorative coatings. The removal of asbestos containing decorative coatings no longer needs to be undertaken by a contractor licensed by the Health and Safety Executive (HSE) for work with asbestos.

Prior to November 2006, a licence to work with asbestos (issued by the HSE) was required to work on asbestos insulation, asbestos insulating board and asbestos coatings (with decorative texture coatings falling into this category). Now, asbestos containing decorative coatings have essentially been de-classed as an asbestos coating and therefore a licence to work on asbestos issued by the HSE is not required. Previously this was a requirement under the Asbestos Licensing Regulations 1983. The Asbestos Licensing Regulations (ASLIC) as well as the Asbestos Prohibitions Regulations 1992 have now been incorporated into CAR 2006.



When is an Asbestos Licence required?

CAR 2006 moves away from defining asbestos material types for notifiable (licensed work) or non-notifiable (non-licensed work) for asbestos removal and instead relies on a decision on whether each particular job exceeds an exposure trigger level, no matter what the ACM type is:

Work with asbestos will be exempt from licensing only if:

- the exposure of employees to asbestos is “sporadic and of low intensity”;
- it is clear from the risk assessment that the exposure of any employee to asbestos will not exceed the control limit; and
- or 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.

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 in any working day.**

It should be noted that “sporadic and low intensity” relates to the exposure and not the frequency that employees are employed to undertake asbestos removal work.

In addition to the risk assessment making it clear that the exposure of any employee to asbestos will not exceed the control limit.

Note: (Action levels are no longer used and the new Control Limit has been reduced) a new control limit for all types of asbestos has been introduced and this is 0.1 f/cm³ when averaged over a continuous period of 4 hours) and the work being “sporadic and low intensity” (the exposure is not liable to exceed 0.6 fibres per cm³ of air measured over 10 minutes in any working day).

In order for the work to be exempt from licensing it must also fall into at least one of the following four categories (you will notice it is **not** f/ml it is now f/cm³):

a) Short, non-continuous maintenance activities

For those familiar with the ‘old’ Control of Asbestos at Work Regulations 2002, short, non-continuous maintenance activities are what were known as “short duration work” or the “one hour rule”.



In CAR 2006, short non-continuous maintenance activities involving asbestos insulation and asbestos insulating board can be considered short non-continuous maintenance activities if any one person carries out work with these materials for less than one hour in a seven day period. The total time spent by all workers on the work should not exceed a total of two hours. When calculating the time the work takes, you should include anything ancillary to the work which is liable to disturb the asbestos, including setting up enclosures and clearing any potentially affected area – this rule should not be adopted by removal contractors.

Please note: if short non-continuous maintenance activities are carried out by licensed contractors under this exemption then it does not preclude the operatives concerned from carrying out other work with asbestos during the seven day period. It only precludes them from carrying out work under the short, non-continuous maintenance activities exemption within the seven day period.

b) Removal of materials in which the asbestos fibres are firmly linked in a matrix

This exemption is the one that effectively removes decorative textured coatings from the asbestos licensing requirements. The materials to which it applies include:

- i) Asbestos cement
- ii) Textured decorative coatings and paints which contain asbestos
- iii) Any article of bitumen, plastic resin or rubber which contains asbestos where its thermal or acoustic properties are incidental to its main purpose (e.g. vinyl floor tiles, electric cables and roofing felt).

There may be other materials in which the asbestos fibres can be firmly linked in a matrix such as paper linings, cardboards, felt, textiles, gaskets, washers or rope where the products have no insulation purposes. If this is the case then the exemption from licensing may apply.

c) Encapsulation or sealing of asbestos containing materials which are in good condition

This exemption used to be included in ASLIC in paragraph 17 where it stated that the definition of work with asbestos did not include painting insulating board, insulation or coatings which are in **sound condition**. The new requirements now apply the exemption to all encapsulation or sealing of asbestos containing materials which are in good condition, i.e. undamaged. This is as long as the exposure of employees to asbestos during the work is sporadic and low intensity and it is clear from the risk assessment that the exposure of any employee to asbestos will not exceed the control limit

d) Air monitoring and control, and the collection and analysis of samples to ascertain whether a specific material contains asbestos.

This exemption was previously included within ASLIC and has now been incorporated into CAR 2006.



You will not require a licence to work with asbestos if you are:

- a) The client who has engaged a licensed contractor to do the licensable work
- b) The principal or main contractor on a construction or demolition site if the licensable work is being done by a subcontractor holding an asbestos licence
- c) An analyst checking that the area is clear of asbestos at the end of the job
- d) Carrying out quality control work such as:
 - i) removal work in progress; or
 - ii) checking outside enclosures that work has been carried out to a standard which meets the terms of the contract.
- e) A Consultant or other reviewing tender submissions on behalf of the client.

It is clear from d (ii) that if the consultant or other who is carrying out a quality control role in order to check that the work is being carried out to standard which meets the terms of the contract, they are only permitted to conduct these activities outside of the enclosure without a licence. Therefore if the consultant or other is required to carry out such a role within the enclosure at any time other than checking that the area is clear at the end of the job (item c above) then a licence is required.

Essentially:

Work on Textured Decorative Coatings (generally) will no longer require:

- to be notified to the HSE or EHO
- to be delayed fourteen days – work can commence to suit local needs
- the Plan of Work and related documentation risk assessments etc to HSE / EHO.

Note: Oddly it could work out that some Asbestos Cement removal projects, in certain circumstances, could trigger the 0.6f/cc in 10 minute rule and fall under the remit of Licence Contractor work.

Also:

- Independent certificate of reoccupation not necessary.
- Self-certification via a written statement should be issued stating area
 - is thoroughly cleaned & visually inspected
 - has no visible traces of dust and debris remain and suitable for reoccupation.

Possible issues with this?:

- Will this allow for the possibility of inadequate removal works as no independent assessment of effectiveness?
- Increases the potential for inadequate cleaning with very little chance of detection
- Dependent upon the honesty and integrity of the company & its employees.
- Are the non-licensed contractors insured to certificate?



- The claims industry could be targeting these jobs ie: *'have you had artex removed and did the contractor leave dust?'*

Training:

Regulation 10 demands that (across **all** sectors) adequate asbestos training is given to those employees who are:

- exposed / liable to be exposed to asbestos so that they are aware of the hazards, risks and can safeguard themselves.

This is split into three categories and is mandatory year on year:

- licensed
- non-licensed
- awareness training.

- Chapter 4 of the Contractor's Guide provides further detail particularly for licensed work.
- Certificates of Training should be traceable and have validity of only one year.
- Training required for persons who are liable to disturb asbestos while carrying out their normal work, or who may influence how the work is conducted include the following (and others):
 - General Maintenance staff
 - Electricians
 - Plumbers
 - Gas fitters
 - Painters and decorators
 - Joiners
 - Plasterers
 - Demolition workers
 - Construction workers
 - Roofers
 - Heating & ventilation engineers
 - Telecommunication engineers
 - Fire & burglar alarms installers
 - Computer installers
 - Architects, building surveyors, and other such professionals
 - Shop fitters

Asbestos Fibre Monitoring:

- Changing from **ERM** (European Reference Method) to **WHO** (World Health Organisation) method
- Giving a change in asbestos counting rules on slides when air monitoring
- Previously rejected fibres must now be counted and hence more stringent asbestos removal process is required (and initially perhaps more enclosures failing that would have passed previously, and certainly could increase potential personal exposures to operatives)
- Also as of April 2007 all analysts undertaking 4 Stage Clearances will be required to hold P403 and P404 qualifications.



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Note: Something that has **NOT** changed is Regulation 4 – Mandatory Duty to manage asbestos in Non-domestic premises.

Where else to go for help:

- HSE web site: publications
- HSE web site: licensed contractors list, enforcement database
- ACoPs: L143 and L127
- Contractors Guide (HSG 247) and Analysts Guide (HSG 248)
- Other guidance: Task Manual etc

See attached flow chart for additional information.



DETERMINING WHETHER AN ASBESTOS LICENCE IS REQUIRED TO WORK WITH ASBESTOS UNDER THE CONTROL OF ASBESTOS REGULATIONS 2006

