

PROPERTY BRIEFING APRIL 2006

THE CONTROL OF ASBESTOS AT WORK REGULATIONS 2002

Regulation 4 created a new legal duty to manage asbestos in non-domestic premises from 21st May 2004.

Why Another Regulation?

Up to 500,000 commercial, industrial and public buildings in the UK are likely to contain asbestos materials. Unless this material is properly managed, building and maintenance workers may breathe in harmful asbestos fibres when carrying out everyday jobs.

What Buildings Are Affected?

All non-domestic buildings, whatever type of business is carried out in them. It also covers the common areas of residential rented properties, including halls, stairwells, lift shafts and roof spaces.

Who Is Responsible?

The dutyholder is anyone responsible for maintaining and repairing all or part of a property, or who has control of the building. For example, the occupier or the owner.

Will the Regulation Affect Me?

If you control or have information about the building, you must co-operate with the dutyholder. For instance, landlords must pass on relevant information to new tenants, and leaseholders must allow access for inspection by managing agents.

When Did This Come Into Effect?

The regulation became law on 21 May 2004.

What Do I Need To Do?

Everyone must start to take action now – even if all you have to do is co-operate with the dutyholder.

If you are a dutyholder you **must**:

- find out whether your building contains asbestos, and what condition it is in;
- assess the risk, e.g. if it is likely to release fibres;
- Make a plan to manage that risk.

Where Do I Start?

- Do a desktop study to check out what you already know about your buildings, e.g. look at plans and other documents.



- Contact anyone else who may already have useful information about the building, e.g. a surveyor, architect or contractor who knows the building.
- Carry out an inspection of the building. You can do this in house, especially if you simply assume materials contain asbestos. Or use an independent expert if samples have to be analysed.
- Record the results of the inspection, identifying the parts of the building where asbestos may be located.
- Assess the risk of asbestos fibres being released into the air from the materials in those areas. Take into account the materials' condition and how likely they are to be damaged or disturbed.
- Draw up a management plan. State which areas, if any, need asbestos to be sealed, encapsulated or, as a last resort, removed. The key part of the plan is to warn people coming to work on the building, to prevent accidental exposure.
- Build in regular checks to make sure the condition of materials has not deteriorated. Concentrate on areas of high risk, where materials are more likely to get damaged.
- Keep the management plan up to date to show any changes that could affect the risk.

Remember, the new legal duty is about managing any asbestos in a building, not about removing all asbestos! Asbestos in good condition and not likely to be disturbed should not be removed. Removal may be unnecessary and costly!

What Shouldn't I Do?

- Don't panic – asbestos is only dangerous when disturbed. If it is safely managed and contained it doesn't present a health hazard.
- Don't remove asbestos unnecessarily. Removing it can be more dangerous than simply containing it.
- Don't treat all asbestos materials the same. You only need to use a licensed contractor to work on high-risk materials, such as pipe insulation or asbestos insulating panels – not on asbestos cement, which is much less dangerous.
- Don't assume you need to bring in a specialist in every case. The regulation allows you to inspect your own building and assume materials contain asbestos.
- Don't forget that the regulation is all about protecting maintenance workers and others from asbestos fibres, so concentrate on practical steps to achieve this.

WHO CAN HELP US?

**Cummings Commercial
Chartered Surveyors
54 Conduit Street
Mayfair
London
W1S 2YY**

**Tel: 0207 734 9244
Fax: 0207 734 9255**

Web: www.cummings-commercial.com