

SUBSIDIARY LEGISLATION 424.23

**PROTECTION OF WORKERS FROM THE RISKS
RELATED TO EXPOSURE TO ASBESTOS AT
WORK REGULATIONS**

15th December, 2006

LEGAL NOTICE 323 of 2006.

1. (1) The title of these regulations is the Protection of Workers from the Risks related to Exposure to Asbestos at Work Regulations. Title, scope and applicability.

(2) The scope of these regulations is to protect workers against risks to their health, including the prevention of such risks, arising or likely to arise from exposure to asbestos at work. These regulations lay down limit values and other specific requirements.

(3) These regulations shall apply to activities in which workers are or may be exposed in the course of their work to dust arising from asbestos or materials containing asbestos.

2. In these regulations, unless the context otherwise requires: Interpretation.
"Act" means the Occupational Health and Safety Authority Act; Cap. 424.

"asbestos" means the following fibrous silicates:

- Asbestos actinolite, CAS (Chemical Abstract Service) No 77536-66-4,
- Asbestos grunerite (amosite) CAS No 12172-73-5,
- Asbestos anthophyllite, CAS No 77536-67-5,
- Chrysotile, CAS No 12001-29-5,
- Crocidolite, CAS No 12001-28-4,
- Asbestos tremolite, CAS No 77536-68-6;

"the Authority" means the Occupational Health and Safety Authority established by virtue of article 8 of the Act;

"doctor" means a medical practitioner, specialised in respiratory medicine, who is appointed by an employer to examine workers exposed to asbestos.

3. (1) In the case of any activity likely to involve a risk of exposure to dust arising from asbestos or materials containing asbestos, this risk must be assessed in such a way as to determine the nature and degree of the workers' exposure to dust arising from asbestos or materials containing asbestos. Assessment of risk.

(2) Provided that worker exposure is sporadic and of low intensity, and if it is clear from the results of the risk assessment referred to in subregulation (1) that the exposure limit for asbestos will not be exceeded in the air of the working area, regulations 4, 12, 13(2) 14 and 15 shall be waived where work involves:

- (a) short, non-continuous maintenance activities in which only non-friable materials are handled,
- (b) removal without deterioration of non-degraded materials in which the asbestos fibres are firmly linked in a matrix,
- (c) encapsulation or sealing of asbestos-containing materials which are in good condition,
- (d) air monitoring and control, and the collection of samples to ascertain whether a specific material contains asbestos.

(3) The assessment provided for in subregulation (1) shall be the subject of consultation with the workers and, or their representatives within the undertaking or establishment and shall be revised where there is reason to believe that it is incorrect or there is a material change in the work.

Notification system.

4. Subject to regulation 3(2), the following measures shall be taken:

- (a) the activities referred to in regulation 1(3) must be covered by a notification system administered by the Authority, and no work involving asbestos or of material containing asbestos may commence before the Authority is thus notified;
- (b) the notification referred to in paragraph (a) shall be submitted by the employer to the Authority before the work commences and must include at least a brief description of:
 - (i) the location of the work site,
 - (ii) the type and quantities of asbestos used or handled,
 - (iii) the activities and processes involved,
 - (iv) the number of workers involved,
 - (v) the starting date and duration of the work,
 - (vi) measures to be taken to limit the exposure of workers to asbestos;
- (c) without prejudice to any other applicable law or regulation, workers and, or their representatives in undertakings or establishments shall have access to the documents which are the subject of notification concerning their own undertaking or establishment; and
- (d) each time a change in working conditions is likely to result in a significant increase in exposure to dust from asbestos or materials containing asbestos, a new notification must be submitted.

Prohibition of asbestos by means of spraying.

5. (1) The application of asbestos by means of the spraying process and working procedures that involve using low-density (less than 1g/cm^3) insulating or soundproofing materials which contain asbestos are prohibited.

(2) Without prejudice to the requirements of other applicable laws and regulations on marketing and use of asbestos, activities which expose workers to asbestos fibres during the extraction of asbestos or the manufacture and processing of asbestos products or the manufacture and processing of products containing intentionally added asbestos shall be prohibited, with the exception of the treatment and disposal of products resulting from demolition and asbestos removal.

6. For all activities referred to in regulation 1(3), the exposure of workers to dust arising from asbestos or materials containing asbestos at the place of work must be reduced to a minimum and in any case below the limit value laid down in regulation 8, in particular through the following measures: Limitations.

- (a) the number of workers exposed or likely to be exposed to dust arising from asbestos or materials containing asbestos must be limited to the lowest possible figure;
- (b) work processes must be designed so as not to produce asbestos dust or, if that proves impossible, to avoid the release of asbestos dust into the air;
- (c) all premises and equipment involved in the treatment of asbestos must be capable of being regularly and effectively cleaned and maintained;
- (d) asbestos or dust-generating asbestos-containing material must be stored and transported in suitable sealed packing; as approved by the Malta Environment and Planning Authority for such purpose;
- (e) waste must be collected and removed from the place of work as soon as possible in suitable sealed packing with labels indicating that it contains asbestos, in accordance with applicable laws and regulations that regulate the disposal of toxic or hazardous material.

7. (1) Depending on the results of the initial risk assessment, and in order to ensure compliance with the limit value laid down in regulation 8, measurement of asbestos fibres in the air at the workplace shall be carried out regularly. Measurement and sampling.

(2) Sampling must be representative of the personal exposure of the worker to dust arising from asbestos or materials containing asbestos.

(3) Sampling shall be carried out after consultation of the workers and, or their representatives in undertakings.

(4) Sampling shall be carried out by suitably qualified personnel. The samples taken shall be subsequently analysed, in accordance with subregulation (6), in laboratories equipped for fibre counting.

(5) The duration of sampling must be such that representative exposure can be established for an eight-hour reference period (one shift) by means of measurements or time-weighted calculations.

(6) Fibre counting shall be carried out wherever possible by

PCM (phase-contrast microscope) in accordance with the most recent, widely accepted recommendations applicable at the time. For the purpose of measuring asbestos in the air, as referred to in the first subparagraph, only fibres with a length of more than five micrometres, a breadth of less than three micrometres and a length/breadth ratio greater than 3:1 shall be taken into consideration.

Application of limit value.

8. Employers shall ensure that no worker is exposed to an airborne concentration of asbestos in excess of 0.1 fibres per cm³ as an eight-hour time-weighted average (TWA).

Exceeding of limit value.

9. (1) Where the limit value laid down in regulation 8 is exceeded, the reasons for the limit being exceeded must be identified and appropriate measures to remedy the situation must be taken as soon as possible. Work may not be continued in the affected area until adequate measures have been taken for the protection of the workers concerned.

(2) In order to check the effectiveness of the measures mentioned in the subregulation (1), a further determination of the asbestos-in-air concentrations shall be carried out immediately.

(3) Where exposure cannot be reduced by other means and where compliance with the limit value makes necessary the wearing of individual protective breathing equipment, this may not be permanent and shall be kept to the strict minimum necessary for each worker. During periods of work which require the use of such equipment, provision shall be made for breaks appropriate to the physical and climatological conditions and, where relevant, in consultation with the workers and, or their representatives.

(4) Before beginning demolition or maintenance work, an employer shall take all necessary steps to identify presumed asbestos-containing materials, including by obtaining information from the owners of the premises. Where there should be reasonable doubt about the presence of asbestos in a material or construction, the applicable provisions of these regulations shall be observed.

Other instances where limit value may be exceeded

10. (1) In the case of certain activities such as demolition, asbestos removal work, repairing and maintenance in respect of which it is foreseeable that the limit value set out in regulation 8 will be exceeded despite the use of technical preventive measures for limiting asbestos in air concentrations, the employer shall determine the measures intended to ensure protection of the workers while they are engaged in such activities, in particular the following:

- (a) workers shall be issued with suitable respiratory and other personal protective equipment, which must be worn; and
- (b) warning signs shall be put up indicating that it is foreseeable that the limit value laid down in regulation 8 will be exceeded; and
- (c) the spread of dust arising from asbestos or materials containing asbestos outside the premises or site of action shall be prevented.

(2) The workers and, or their representatives in the undertaking or establishment shall be consulted on these measures before the activities concerned are carried out.

11. (1) A plan of work shall be drawn up before demolition work or work on removing asbestos and, or asbestos-containing products from buildings, structures, plant or installations or from ships is started. Plan of work.

(2) The plan referred to in subregulation (1) must prescribe the measures necessary to ensure the safety and health of workers at the place of work. The plan must in particular specify that:

- (a) asbestos and, or asbestos-containing products are to be removed before demolition works commence, except where this would cause a greater risk to workers than if the asbestos and, or asbestos-containing products had been left in place;
 - (b) the personal protective equipment referred to in regulation 10(1)(a) shall be provided, where necessary;
 - (c) when the asbestos demolition or removal work has been completed, the absence of asbestos exposure risks in the workplace shall be verified.
- (3) The plan shall include information on the following:
- (a) the nature and probable duration of the work;
 - (b) the place where the work is carried out;
 - (c) the methods applied where the work involves the handling of asbestos or of materials containing asbestos;
 - (d) the characteristics of the equipment used for:
 - (i) protection and decontamination of those carrying out the work;
 - (ii) protection of other persons present on or near the worksite.

(4) The plan referred to in subregulation (1) shall be forwarded to the Authority before the start of the projected work, and the Authority may require additional preventive or protective measures to be taken so as to better safeguard the health and safety of workers and, or third parties.

12. (1) In the case of all activities referred to in regulation 1(3), and subject to regulation 3(2), appropriate measures shall be taken to ensure that: Appropriate measures.

- (a) the places in which the above activities take place:
 - (i) be clearly demarcated and indicated by warning signs;
 - (ii) not be accessible to workers other than those who by reason of their work or duties are required to enter them;
 - (iii) constitute areas where there should be no

smoking;

- (b) areas are set aside where workers can eat and drink without risking contamination by asbestos dust:
 - (i) workers are provided with appropriate working or protective clothing;
 - (ii) this working or protective clothing remains within the undertaking. It may, however, be laundered in establishments outside the undertaking which are equipped for this sort of work if the undertaking does not carry out the cleaning itself; in that event the clothing shall be transported in closed containers;
 - (iii) separate storage places are provided for working or protective clothing and for street clothes;
 - (iv) workers are provided with appropriate and adequate washing and toilet facilities, including showers in the case of dusty operations;
 - (v) protective equipment shall be placed in a well-defined place and shall be checked and cleaned after each use; appropriate measures shall be taken to repair or replace defective equipment before further use.

(2) Workers may not be charged with the cost of measures taken pursuant to this regulation.

Information to workers.

13. (1) In the case of all activities referred to in regulation 1(3), appropriate measures shall be taken to ensure that workers and their representatives in the undertaking or establishment receive adequate information concerning:

- (a) the potential risks to health from exposure to dust arising from asbestos or materials containing asbestos,
- (b) the existence of statutory limit values and the need for the atmosphere to be monitored,
- (c) hygiene requirements, including the need to refrain from smoking,
- (d) the precautions to be taken as regards the wearing and use of protective equipment and clothing,
- (e) special precautions designed to minimize exposure to asbestos.

(2) In addition to the measures referred to in subregulation (1) and subject to regulation 3(2), appropriate measures shall be taken to ensure that:

- (a) workers and, or their representatives in the undertaking or establishment have access to the results of asbestos-in-air concentration measurements and can be given explanations of the significance of those results;
- (b) if the results exceed the limit value laid down in regulation 8 the workers concerned and their

representatives in the undertaking or establishment are informed as quickly as possible of the fact and the reasons for it and the workers and, or their representatives in the undertaking or establishment are consulted on the measures to be taken or, in an emergency, are informed of the measures which have been taken.

14. Subject to regulation 3(2) the following measures shall be taken:

Health surveillance.

- (a) an assessment of each worker's state of health, including a specific examination of the chest, must be carried out prior to the beginning of exposure to dust arising from asbestos or materials containing asbestos at the place of work, and for this purpose, a doctor carrying out such an examination may be guided by the practical recommendations of Schedule I;
- (b) a new assessment must be carried out at least once every three years for as long as exposure continues, and a record of the health of each individual thus examined must be established by the doctor:

Provided that the doctor shall pass to the employer the results of these assessments and any recommendations made, under strict confidential cover, and the employer shall give to the worker copies of such assessments and recommendations to the worker concerned;

- (c) following the clinical surveillance referred to in this regulation, the doctor responsible for the medical surveillance of the workers should advise on, or determine any individual protective or preventive measures to be taken; these may include, where appropriate, the withdrawal of the worker concerned from all exposure to asbestos. The doctor may refer any particular case to the Authority for specific instructions;
- (d) information and advice must be given to workers regarding any assessment of their health which they may undergo following the end of exposure. The doctor may indicate that medical surveillance must continue after the end of exposure for as long as is considered necessary to safeguard the health of the person concerned;
- (e) the worker concerned or the employer may request a review of the assessments referred to in paragraphs (a) and (b).

15. Subject to regulation 3(2), the following measures shall be taken:

Maintenance of health register.

- (a) the employer must enter the names of the workers responsible for carrying out the activities referred to in regulation 1(3) in a register, indicating the nature and

duration of the activity and the exposure to which they have been subjected. The doctor and, or the Authority shall have access to this register. Each worker shall have access to the results in the register which relate to him personally. The workers and, or their representatives shall have access to anonymous, collective information in the register;

- (b) the register and the medical records referred to in regulation 14(a) and (b) shall be kept for at least forty years following the end of exposure;
- (c) the documents referred to in this regulation shall be made available to the Authority in cases where the undertaking ceases trading.

Employers to provide training.

16. (1) Employers shall provide appropriate training for all workers who are, or are likely to be, exposed to asbestos-containing dust. Such training must be provided at regular intervals and at no cost to the workers.

(2) The content of the training must be easily understandable for workers. It must enable them to acquire the necessary knowledge and skills in terms of prevention and safety, particularly as regards:

- (a) the properties of asbestos and its effects on health, including the synergistic effect of smoking;
- (b) the types of products or materials likely to contain asbestos;
- (c) the operations that could result in asbestos exposure and the importance of preventive controls to minimise exposure;
- (d) safe work practices, controls and protective equipment;
- (e) the appropriate role, choice, selection, limitations and proper use of respiratory equipment;
- (f) emergency procedures;
- (g) decontamination procedures;
- (h) waste disposal;
- (i) medical surveillance requirements.

(3) Before carrying out asbestos demolition or removal work, an employer shall provide evidence to the Authority of his ability in this field, which may require an employer working or intending to work in this field, to be registered with it, and in so doing, the Authority may determine the registration criteria.

Register of recognised cases of asbestosis and, or mesothelioma.

17. The Authority shall keep a register of confirmed cases of asbestosis and mesothelioma, and for this purpose, any government department, agency or entity that is notified by any means whatsoever of the occurrence of a case of asbestosis and, or mesothelioma, shall inform the Authority of such notification, and shall also give the Authority all other relevant details known to the

Department, Agency or entity.

18. These regulations shall be without prejudice to any other regulation, or any conditions made or imposed by any other competent authority in Malta concerning the importation, use, transport, disposal, storage or export of asbestos or of any material containing asbestos. Saving.

19. In any proceedings for an offence under these regulations consisting of a failure to comply with a duty or requirement to do something, or to do something so far as is reasonably practicable, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy such duty or requirement, or that there was no better practicable means than was in fact used to satisfy such duty or requirement. Onus of proof.

20. Any person who knowingly or recklessly interferes with the process of providing a safe and healthy place of work, shall be guilty of an offence. Offences.

SCHEDULE I

Practical recommendations for the clinical assessment of workers,
as referred to in regulation 14(1)

1. Current knowledge indicates that exposure to free asbestos fibres can give rise to the following diseases:

- asbestosis,
- mesothelioma,
- bronchial carcinoma,
- gastro-intestinal carcinoma.

2. The doctor responsible for the medical surveillance of workers exposed to asbestos must be familiar with the exposure conditions or circumstances of each worker.

3. Health examination of workers should be carried out in accordance with the principles and practices of occupational medicine. It should include at least the following measures:

- keeping records of a worker's medical and occupational history,
- a personal interview,
- a general clinical examination, with particular reference to the chest,
- lung function tests (respiratory flow volumes and rates).

The doctor should decide on further examinations, such as sputum cytology tests or a chest X-ray or other suitable radiological tests as appropriate, in the light of the latest occupational health knowledge available.
