
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 99

HEALTH AND SAFETY

**Asbestos (Prohibitions) (Amendment) Regulations
(Northern Ireland) 2000**

Made 20th March 2000

Coming into operation 2nd May 2000

The Department of Enterprise, Trade and Investment, being the Department concerned(a), in exercise of the powers conferred on it by Articles 17(1), (2) and (5) and 55(2) of, and paragraph 1(1) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(b) and of every other power enabling it in that behalf, after consultation in accordance with Article 46(1)(c) of that Order with the Health and Safety Executive for Northern Ireland and such other bodies as appeared to the Department to be appropriate, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Asbestos (Prohibitions) (Amendment) Regulations (Northern Ireland) 2000 and shall come into operation on 2nd May 2000.

Amendment of the Asbestos (Prohibitions) Regulations (Northern Ireland) 1993

2.—(1) The Asbestos (Prohibitions) Regulations (Northern Ireland) 1993(d) shall be amended in accordance with the following paragraphs.

(2) At the end of regulation 2(1) there shall be added the following definitions—

““supply” means supply by way of sale, lease, hire, hire-purchase, loan, gift or exchange for a consideration other than money, whether (in all cases) as principal or as agent for another;

“territorial waters” means United Kingdom territorial waters adjacent to Northern Ireland and “within territorial waters” includes on, over and under them.”.

(a) See Article 2(2) of S.I. 1978/1039 (N.I. 9)
(b) S.I. 1978/1039 (N.I. 9); the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I.17), Article 3(1). Article 47A was inserted by Article 3, and Article 2 was amended by Articles 4 and 8, of S.I. 1997/1774 (N.I. 16)
(c) Article 46(1) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18
(d) S.R. 1993 No.25; relevant amending Regulations are S.R. 1999 No.150, regulation 2 and the Schedule

(3) In regulation 3, after the word “supply”, there shall be inserted the words, “other than solely for the purpose of disposal,”.

(4) In regulation 4(2), for the words “containing amphibole asbestos”, there shall be substituted the words “to which amphibole asbestos has intentionally been added”.

(5) For regulation 6, there shall be substituted the following regulation—

“Prohibition of the supply or use of chrysotile and products containing it

6.—(1) Subject to the provisions of Schedule 1, a person shall not supply or use—

(a) chrysotile; or

(b) any product to which chrysotile has intentionally been added, unless it was in use before 2nd May 2000.

(2) Notwithstanding paragraph (1), a person shall not use—

(a) asbestos cement;

(b) any board, panel or tile, all or part of which has been painted with paint containing chrysotile; or

(c) any board, panel or tile, all or part of which has been covered in a textured finishing plaster used for decorative purposes and containing chrysotile,

unless it is installed in or forms part of any premises or plant and, before 2nd May 2000, it was installed in or formed part of those same premises or that same plant.

(3) Notwithstanding paragraph (1), a person shall not supply or use any product to which chrysotile has been intentionally added, the supply or use of which was prohibited by these Regulations as in operation immediately before 2nd May 2000.

(4) Paragraphs (1) to (3) shall not apply to any activity in connection with the disposal of crude, fibre, flake, powder or waste chrysotile or of any product to which chrysotile has intentionally been added.

(5) In this regulation, “asbestos cement” means a material which is predominantly a mixture of cement and chrysotile and which when in a dry state has a density greater than 1 tonne per cubic metre.”.

(6) At the end of regulation 7, there shall be added the following paragraphs—

“(3) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt—

(a) Her Majesty’s Forces or visiting forces from all or any of the requirements or prohibitions imposed by these Regulations;

(b) any other person connected with the production of or trade in arms, munitions or war materials from all or any requirements or prohibitions imposed by regulation 6(1), (2) and (3);

and any such exemption may be granted subject to conditions and to a limit of time.

(4) An exemption granted in accordance with paragraph (3) may be varied or revoked at any time by a certificate in writing.

(5) In this regulation, any reference to “visiting forces” is a reference to visiting forces within the meaning of any provision of Part I of the Visiting Forces Act 1952(a).”.

(7) After regulation 7 there shall be inserted the following regulation—

“Application within territorial waters

7A. Within territorial waters these Regulations shall apply only to or in relation to the premises and activities to which any of paragraphs 2 to 6 of Schedule 2 applies.”.

(8) For the Schedule, there shall be substituted Schedule 1 as set out in Schedule 1 to these Regulations.

(9) After Schedule 1 there shall be added Schedule 2 as set out in Schedule 2 to these Regulations.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 20th March 2000.

(L.S.)

Adrienne L. Brown

A senior officer of the Department of Enterprise, Trade and Investment

**Schedule to be substituted for the Schedule to the Asbestos (Prohibitions)
Regulations (Northern Ireland) 1993**

Derogation from the prohibitions on the supply and use of chrysotile

1. Regulation 6(1) shall not apply to—

- (a) the products described in paragraph 2, except for use with chlorine, until 1st January 2001;
- (b) the products described in paragraph 2 which are for use with chlorine until 1st January 2003;
- (c) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraph 2, except for use with chlorine, until 1st January 2001;
- (d) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraph 2 which are for use with chlorine until 1st January 2003;
- (e) the products described in paragraph 3 until 1st January 2003;
- (f) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraph 3 until 1st January 2003;
- (g) the products described in paragraphs 4 to 6 until 1st January 2004;
- (h) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraphs 4 to 6, until 1st January 2004;
- (i) the products described in paragraph 7 until 1st January 2005;
- (j) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraph 7, until 1st January 2005;
- (k) the products described in paragraphs 8 and 9;
- (l) chrysotile, or products to which chrysotile has intentionally been added required solely for the manufacture of the products described in paragraph 9.

2. Compressed asbestos fibre gaskets for use with saturated steam, superheated steam, or with substances which if classified in accordance with the classification provided for by regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(a) would be in the category of danger, corrosive, toxic, flammable or highly flammable.

3. Any sheet which when in a dry state has a density greater than 1900 kilograms per cubic metre and is used in temperatures at or above 500°C.

4. Any component of an aeroplane or helicopter which is necessary for its safe operation.

(a) S.R. 1995 No. 60, as amended by S.R. 1996 No. 376, S.R. 1997 No. 398, S.R. 1998 No. 459, S.R. 1999 No. 150 and S.R. 1999 No. 303

5. Any product consisting of a mixture of asbestos with a phenol formaldehyde resin or with a cresylic formaldehyde resin used in—

- (a) vanes for rotary vacuum pumps;
- (b) vanes for rotary compressors;
- (c) any bearing or its housing; or
- (d) split face seals of at least 150 millimetres in diameter used to prevent leakage of water from hydro-electric power generation turbines or from cooling water pumps in fossil fuel or nuclear-powered electricity generating stations.

6. Pre-formed joints for sealing the doors of steam boilers and made from cloth containing asbestos and proofed with rubber or another elastomeric polymer.

7. Personal protective clothing for protection against the handling of material at a temperature of 500°C or more.

8. Vehicle brake linings, and in this paragraph—

“vehicle” means a vehicle which is to be treated as a motor vehicle or trailer for the purposes of the Road Traffic (Northern Ireland) Order 1995(a);

“brake linings” means the friction material components of a brake lining assembly; and

“brake lining assembly” means a component of a friction brake which is pressed against a drum or disc, to produce the friction force.

9. Diaphragms for use in electrolytic cells in existing electrolysis plants for chlor-alkali manufacture.

10. Receptacles used for the storage of acetylene gas under pressure and in use before 2nd May 2000.”

**Schedule to be added after Schedule 1 to the Asbestos (Prohibitions)
Regulations (Northern Ireland) 1993**

Premises and activities within territorial waters

Interpretation

1.—(1) In this Schedule—

“designated area” means any area designated by order under section 1(7) of the Continental Shelf Act 1964(a) and “within a designated area” includes over and under it;

“offshore installation” shall be construed in accordance with paragraph 2(4) and (5);

“stand-by vessel” means a vessel which is ready to give assistance in the event of an emergency on or near an offshore installation;

“vessel” includes a hovercraft and a floating structure which is capable of being staffed.

(2) For the purposes of this Schedule, any structures and devices on top of a well shall be treated as forming part of the well.

(3) For the purposes of this Schedule, a person shall be deemed to be engaged in diving operations throughout any period from the time when he commences to prepare for diving until the time when—

(a) he is no longer subjected to raised pressure;

(b) he has normal inert gas partial pressure in his tissues; and

(c) if he entered the water, he has left it,

and diving operations include the activity of any person in connection with the health and safety of a person who is, or is deemed to be, engaged in diving operations.

(4) Any reference in this Schedule to premises and activities (howsoever described) includes a reference to any person, article or substance on those premises or engaged in or, as the case may be, used or for use in connection with any such activity, but does not include a reference to an aircraft which is airborne.

Offshore installations

2.—(1) This paragraph applies to—

(a) any offshore installation and any activity on it;

(b) any activity, including diving operations, in connection with an offshore installation, or any activity which is immediately preparatory thereto, whether carried on from the installation itself, on or from a vessel or in any other manner, other than—

(i) transporting, towing or navigating the installation; or

(ii) any activity on or from a vessel being used as a stand-by vessel; or

(a) 1964 c. 29; section 1 was amended by the Oil and Gas Enterprise Act 1982 (c. 23), Schedule 3, paragraph 1

(c) diving operations involving the survey and preparation of the sea bed for an offshore installation.

(2) Subject to sub-paragraph (3), in this Schedule “offshore installation” means a structure which is, or is to be, or has been, used while standing or stationed in water, or on the foreshore or other land intermittently covered with water—

(a) for the exploitation, or exploration with a view to exploitation, of mineral resources by means of a well;

(b) for the storage of gas in or under the shore or bed of any water or the recovery of gas so stored;

(c) for the conveyance of things by means of a pipe; or

(d) mainly for the provision of accommodation for persons who work on or from a structure falling within any of the provisions of this sub-paragraph,

and which is not an excepted structure.

(3) For the purposes of sub-paragraph (2), the excepted structures are—

(a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes;

(b) a well;

(c) a structure which has ceased to be used for any of the purposes specified in sub-paragraph (2) and has since been used for a purpose not so specified;

(d) a mobile structure which has been taken out of use and is not for the time being intended to be used for any of the purposes specified in sub-paragraph (2); and

(e) any part of a pipeline.

Wells

3.—(1) This paragraph applies to—

(a) a well and any activity in connection with it; or

(b) an activity which is immediately preparatory to any activity falling within head (a).

(2) Sub-paragraph (1) includes keeping a vessel on station for the purpose of working on a well but otherwise does not include navigation or an activity connected with navigation.

Pipelines

4.—(1) This paragraph applies to—

(a) a pipeline;

(b) any pipeline works; or

(c) any of the following activities in connection with pipeline works, namely—

(i) the loading, unloading, fuelling or provisioning of a vessel;

(ii) the loading, unloading, fuelling, repair and maintenance of an aircraft on a vessel,

being in either case a vessel which is engaged in pipeline works.

(2) In this paragraph—

“pipeline” means a pipe or system of pipes for the conveyance of any thing, together with—

- (a) any apparatus for inducing or facilitating the flow of any thing through, or through a part of, the pipe or system;
- (b) any apparatus for treating or cooling any thing which is to flow through, or through part of, the pipe or system;
- (c) valves, valve chambers and similar works which are annexed to, or incorporated in the course of, the pipe or system;
- (d) apparatus for supplying energy for the operation of any such apparatus or works as are mentioned in heads (a) to (c);
- (e) apparatus for the transmission of information for the operation of the pipe or system;
- (f) apparatus for the cathodic protection of the pipe or system; and
- (g) a structure used or to be used solely for the support of a part of the pipe or system;

but not including a pipeline of which no initial or terminal point is situated in the United Kingdom or within territorial waters, United Kingdom territorial waters adjacent to Great Britain or a designated area;

“pipeline works” means—

- (a) assembling or placing a pipeline or length of pipeline including the provision of internal or external protection for it;
- (b) inspecting, testing, maintaining, adjusting, repairing, altering or renewing a pipeline or length of pipeline;
- (c) changing the position of or dismantling or removing a pipeline or length of pipeline;
- (d) opening the bed of the sea for the purposes of the works mentioned in heads (a) to (c), and tunnelling or boring for those purposes;
- (e) any activities incidental to the activities described in heads (a) to (d);
- (f) diving operations in connection with any of the works mentioned in heads (a) to (e) or for the purpose of determining whether a place is suitable as part of a site of a proposed pipeline and the carrying out of surveying operations for settling the route of a proposed pipeline.

Mines

5.—(1) This paragraph applies to the working of a mine and work for the purpose of, or in connection with, the working of any part of a mine.

(2) In this paragraph “mine” and “working of a mine” have the same meaning as in the Mines Act (Northern Ireland) 1969(a).

Other activities

6.—(1) Subject to sub-paragraph (2), this paragraph applies to—

- (a) the construction, reconstruction, alteration, repair, maintenance, cleaning, demolition and dismantling of any building or other structure not being a vessel or any preparation for any such activity;
- (b) the loading, unloading, fuelling or provisioning of a vessel;
- (c) diving operations;

(a) 1969 c. 6 (N.I.)

- (d) the construction, reconstruction, finishing, refitting, repair, maintenance, cleaning or breaking up of a vessel except when carried out by the master or any officer or member of the crew of that vessel; or
 - (e) the maintaining on a station of a vessel which would be an offshore installation were it not a structure to which paragraph 2(3)(d) relates.
- (2) This paragraph does not apply to vessels which are registered outside the United Kingdom and are on passage through territorial waters.”

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations amend the Asbestos (Prohibitions) Regulations (Northern Ireland) 1993, S.R. 1993 No. 25 (“the 1993 Regulations”). Save for the provisions referred to in paragraph 6, the Regulations also implement, as respects Northern Ireland, Commission Directive 99/77/EC (O.J. No. L207, 6.8.99, p. 18), adapting to technical progress for the sixth time Annex 1 to Council Directive 76/769/EEC (O.J. No. L262, 27.9.76, p. 24) on the approximation of the laws, regulations and administrative provisions of the Member States relating to the restrictions on the marketing and use of certain dangerous substances and preparations (asbestos). The principal provisions are referred to in the following paragraphs.

2. In regulation 2(1) of the 1993 Regulations, a definition of the word “supply” is inserted thereby extending the meaning of that word to cover supply by way of loan, gift, or exchange for a consideration other than money. (*Regulation 2(2)*).

3. Regulation 6 of the 1993 Regulations is replaced by a new regulation 6 which amongst other things prohibits the supply and use of chrysotile asbestos and any product to which chrysotile asbestos has intentionally been added and which was not in use before 2nd May 2000. (*Regulation 2(5)*).

4. Regulation 7 of the 1993 Regulations is amended to enable the Secretary of State for Defence to grant exemptions to specified persons in the interest of national security. (*Regulation 2(6)*).

5. A new Schedule is inserted into the 1993 Regulations which contains derogations from the provisions of the new regulation 6(1). (*Regulation 2(8) and Schedule 1*).

6. The Regulations make additions to the 1993 Regulations so as to specify the premises and activities within United Kingdom territorial waters adjacent to Northern Ireland to which the 1993 Regulations apply. (*Regulation 2(7) and (9) and Schedule 2*).

7. In Great Britain the corresponding Regulations are the Asbestos (Prohibitions) (Amendment) Regulations 1999 (S.I. 1999/2373) and the Asbestos (Prohibitions) (Amendment) (No. 2) Regulations 1999 (S.I. 1999/2977). The Health and Safety Executive has prepared a regulatory impact assessment in relation to those Regulations and a copy of that assessment, together with a Northern Ireland Supplement prepared by the Department of Enterprise, Trade and Investment, is held at the offices of the Health and Safety Executive for Northern Ireland at 83 Ladas Drive, Belfast, BT6 9FR, from where copies may be obtained.

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