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STATUTORY INSTRUMENTS

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**2006 No. 2739**

**The Control of Asbestos Regulations 2006**

**PART 3**

**PROHIBITIONS AND RELATED PROVISIONS**

**Interpretation of prohibitions**

**25.—**(1) In this Part —

“asbestos cement” means a material which is predominantly a mixture of cement and chrysotile and which when in a dry state absorbs less than 30% water by weight;

“asbestos spraying” means the application by spraying of any material containing asbestos to form a continuous surface coating;

“extraction of asbestos” means the extraction by mining or otherwise of asbestos as the primary product of such extraction, but shall not include extraction which produces asbestos as a by-product of the primary activity of extraction;

“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; and

“use” in relation to asbestos or any product to which asbestos has intentionally been added means—

- (a) putting asbestos or any product to which asbestos has intentionally been added to use for the first time; or
- (b) putting asbestos or any product to which asbestos has intentionally been added which has been in use before to a new use.

(2) Any prohibition imposed on any person by this Part shall apply only to acts done in the course of a trade, business or other undertaking (whether for profit or not) carried on by him.

(3) Any prohibition imposed by this Part on the importation into the United Kingdom, or on the supply or use of asbestos shall not apply to the importation, supply or use of asbestos solely for the purposes of research, development or analysis.

(4) Where in this Part it is stated that asbestos has intentionally been added to a product or is intentionally added, it will be presumed where—

- (a) asbestos is present in any product; and
- (b) asbestos is not a naturally occurring impurity of that product, or of any component or constituent thereof,

that the asbestos has intentionally been added or is intentionally added, as the case may be, subject to evidence to the contrary being adduced in any proceedings.

### **Prohibitions of exposure to asbestos**

**26.**—(1) No person shall undertake asbestos spraying or working procedures that involve using low-density (less than 1g/cm<sup>3</sup>) insulating or soundproofing materials which contain asbestos.

(2) Every employer shall ensure that no employees are exposed to asbestos during the extraction of asbestos.

(3) Every employer shall ensure that no employees are exposed to asbestos during the manufacture of asbestos products or of products containing intentionally added asbestos.

(4) In the case of chrysotile only, the prohibition in paragraph (3) is subject to the exception in paragraph 2 of Schedule 3.

### **Prohibition of the importation of asbestos**

**27.**—(1) Subject to paragraph (2), the importation into the United Kingdom of asbestos or of any product to which asbestos has intentionally been added is prohibited and any contravention of this paragraph shall be punishable under the Customs and Excise Management Act 1979<sup>(1)</sup> and not as a contravention of a health and safety regulation.

(2) In the case of chrysotile only, the prohibition in paragraph (1) is subject to the exceptions in paragraphs 1, 2 and 3 of Schedule 3.

### **Prohibition of the supply of asbestos**

**28.**—(1) Subject to paragraphs (2) and (3), no person shall supply, other than solely for the purpose of disposal, asbestos or any product to which asbestos has intentionally been added.

(2) In the case of chrysotile only, the prohibition in paragraph (1) shall not apply where the asbestos or the product was in use before 24th November 1999, except in the case of a product to which asbestos has intentionally been added of which the supply was prohibited by regulation 7 of the Asbestos (Prohibitions) Regulations 1992<sup>(2)</sup> as in force immediately before 24th November 1999.

(3) In the case of chrysotile only, the prohibition in paragraph (1) is subject to the exceptions in paragraphs 1 and 2 of Schedule 3.

### **Prohibition of the use of asbestos**

**29.**—(1) Subject to paragraphs (2) to (6), no person shall use, except in the course of any activity in connection with its disposal, asbestos or any product to which asbestos has intentionally been added.

(2) In the case of products containing crocidolite or asbestos grunerite (amosite), the prohibition in paragraph (1) shall not apply where the product was in use before 1st January 1986.

(3) In the case of products containing any other form of asbestos than crocidolite or asbestos grunerite (amosite), but excepting chrysotile, the prohibition in paragraph (1) shall not apply where the product was in use before 1st January 1993.

(4) In the case of chrysotile only, the prohibition in paragraph (1) shall not apply where the asbestos or product was in use before 24th November 1999, except in the case of a product containing chrysotile of which the supply was prohibited by regulation 7 of the Asbestos (Prohibitions) Regulations 1992 as in force immediately before 24th November 1999.

(5) Notwithstanding paragraph (4), no person shall use, except in the course of any activity in connection with its disposal,—

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(1) 1979 c.2.

(2) S.I. 1992/3067, as amended by S.I. 1999/2373.

- (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 24th November 1999, it was installed in or formed part of those same premises or plant.

(6) In the case of chrysotile only, the prohibition in paragraph (1) is subject to the exceptions in paragraphs 1 and 2 of Schedule 3.

### **Labelling of products containing asbestos**

**30.**—(1) Subject to paragraph (2), a person shall not supply under an exception in Schedule 3 or an exemption granted pursuant to regulation 32 or regulation 33 a product which contains asbestos unless that product is labelled in accordance with the provisions of Schedule 2.

(2) Where a component of a product contains asbestos, it shall be sufficient compliance with this regulation if that component is labelled in accordance with the provisions of Schedule 2 except that where the size of that component makes it impossible for a label to be fixed to it neither that component nor the product need be labelled.

### **Additional provisions in the case of exceptions and exemptions**

**31.**—(1) Where under an exception in Schedule 3 or an exemption granted pursuant to regulation 32 or regulation 33 asbestos is used in a work process or is produced by a work process, the employer shall ensure that the quantity of asbestos and materials containing asbestos at the premises where the work is carried out is reduced to as low a level as is reasonably practicable.

(2) Subject to paragraph (3), where under an exception in Schedule 3 or an exemption granted pursuant to regulation 32 or regulation 33 a manufacturing process which gives rise to asbestos dust is carried out in a building, the employer shall ensure that any part of the building in which the process is carried out is—

- (a) so designed and constructed as to facilitate cleaning; and
- (b) is equipped with an adequate and suitable vacuum cleaning system which shall, where reasonably practicable, be a fixed system.

(3) Paragraph 2(a) shall not apply to a building in which, prior to 1st March 1988, there was carried out a process to which either—

- (a) as then in force, regulation 13 of the Asbestos Regulations 1969(3) applied and the process was carried out in compliance with that regulation; or
- (b) that regulation did not apply.