
STATUTORY INSTRUMENTS

2006 No. 2739

The Control of Asbestos Regulations 2006

PART 4

MISCELLANEOUS

Exemption certificates

32.—(1) Subject to paragraph (4), the Executive may, by a certificate in writing, exempt any person or class of persons or any product containing asbestos or class of such products from all or any of the requirements or prohibitions imposed by regulations 4, 8, 12, 13, 21, 22(5) to (7) and 27 and any such exemption may be granted subject to conditions and to a limit of time and may be varied or revoked by a further certificate in writing at any time.

(2) Subject to paragraph (4) and to the provisions of Council Directive [76/769/EEC](#) on the marketing and use of certain dangerous substances and preparations⁽¹⁾, the Executive may, by a certificate in writing, exempt any person or class of persons or any product containing asbestos or class of such products from the prohibitions imposed by regulations 28(1) and 29(1) and any such exemption may be granted subject to conditions and to a limit of time and may be varied or revoked by a further certificate in writing at any time.

(3) Subject to paragraph (4), the Executive may exempt emergency services from all or any of the requirements or prohibitions imposed by regulations 7 and 9 and any such exemption may be granted subject to conditions and to a limit of time and may be varied or revoked by a further certificate in writing at any time.

(4) The Executive shall not grant any exemption under paragraph (1),(2) or (3) unless having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health or safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Exemptions relating to the Ministry of Defence

33. The Secretary of State for Defence may, in the interests of national security, exempt any person or class of persons from all or any of the prohibitions imposed by Part 3 of these Regulations by a certificate in writing, and any such exemption may be granted subject to conditions and to a limit of time and may be varied or revoked by a further certificate in writing at any time.

⁽¹⁾ OJNo. L 262, 27.9.1976, p. 201, relevant amendments are Council Directives [83/478/EEC](#) (OJ No L 263, 24.9.83 p.33 and [85/467/EEC](#) (OJ No L269, 11.10.85 p.56), and Commission Directives [91/659/EEC](#) (OJ No L363, 31.12.91 p.36) and [1999/43/EC](#) (OJ No L207, 6.8.99 p.18).

Extension outside Great Britain

34. These Regulations shall apply to any work outside Great Britain to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 apply by virtue of the Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order 2001(2) as they apply to work in Great Britain.

Existing licences and exemption certificates

35.—(1) An existing licence issued by the Executive under regulation 4(1) of the Asbestos (Licensing) Regulations 1983(3) shall—

- (a) continue to have effect as if it had been granted under regulation 8(2) of these Regulations;
- (b) be of the duration and subject to the conditions specified in it as if that duration and those conditions had been specified under regulation 8(3); and
- (c) be liable to variation and revocation under regulation 8(4) and (5),

and any requirement in such a licence concerning notification and any exception to such a requirement shall have effect as a requirement for notification under regulation 9 of and as an exception to such a requirement under regulation 3(2) of these Regulations.

(2) An existing exemption granted by the Executive under regulation 7(1) of the Asbestos (Licensing) Regulations 1983, regulation 8(1) of the Asbestos (Prohibitions) Regulations 1992(4), or regulation 25(1) of the Control of Asbestos at Work Regulations 2002(5) shall continue to have effect and be subject to any limitation of time or any conditions specified in it and liable to revocation as if it had been granted under regulation 32(1), (2) or (3) of these Regulations.

(3) An existing exemption granted by the Secretary of State for Defence under regulation 8(3) of the Asbestos (Prohibitions) Regulations 1992 shall continue to have effect and be subject to any limitation of time or any conditions specified in it and liable to revocation as if it had been granted under regulation 33 of these Regulations.

Revocations, amendments and savings

36.—(1) The revocations listed in Schedule 4 shall have effect.

(2) The amendments listed in Schedule 5 shall have effect.

(3) Any record or register required to be kept under any Regulations revoked either by paragraph (1) or by regulation 27(1) of the Control of Asbestos at Work Regulations 2002 shall, notwithstanding that revocation, be kept in the same manner and for the same period as specified in those Regulations as if these Regulations had not been made, except that the Executive may approve the keeping of records at a place or in a form other than at the place where, or in the form which, records were required to be kept under the Regulations so revoked.

Defence

37. Subject to regulation 21 of the Management of Health and Safety at Work Regulations 1999(6), in any proceedings for an offence consisting of a contravention of Part 2 of these Regulations it shall be a defence for any person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

(2) S.I. 2001/2127.

(3) S.I. 1983/1649, as amended by S.I. 1986/392 and S.I. 1998/3233.

(4) S.I. 1992/3067, as amended by S.I. 1999/2373, S.I. 1999/2977 and S.I. 2003/1889.

(5) S.I. 2002/2675.

(6) S.I. 1999/3242, amended by S.I. 2003/2457 and S.I. 2006/438.

