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STATUTORY INSTRUMENTS

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**2012 No. 632**

**The Control of Asbestos Regulations 2012**

**PART 4**

Miscellaneous

**Exemption certificates**

**29.**—(1) Subject to paragraph (3), 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 and 22(5) and (7) 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 (3), 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.

(3) The Executive must not grant any exemption under paragraph (1) or (2) 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**

**30.** The Secretary of State for Defence may, in the interests of national security, exempt any person or class of persons from the prohibition 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.

**Extension outside Great Britain**

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

**Existing licences and exemption certificates**

**32.**—(1) An existing licence granted by the Executive under regulation 8(2) of the Control of Asbestos Regulations 2006(2) shall—

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(1) [S.I. 2001/2127](#), amended by [S.I. 2009/1750](#) and [2011/745](#).  
(2) [S.I. 2006/2739](#).

- (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 or any exception to such a requirement has effect as a requirement for notification under regulation 9, or 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<sup>(3)</sup>, regulation 8(1) of the Asbestos (Prohibitions) Regulations 1992<sup>(4)</sup>, regulation 25(1) of the Control of Asbestos at Work Regulations 2002<sup>(5)</sup> or regulation 32 of the Control of Asbestos Regulations 2006 continues 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 29(1) or (2) 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 or regulation 33 of the Control of Asbestos Regulations 2006 continues 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 30 of these Regulations.

### **Revocations and savings**

**33.**—(1) The Control of Asbestos Regulations 2006 are revoked.

(2) The amendments listed in Schedule 3 will have effect.

(3) Any record or register required to be kept under the Regulations revoked either by paragraph (1), or by any of the Regulations revoked by regulation 36(1) of the Control of Asbestos Regulations 2006 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 in which, records were required to be kept under the Regulations so revoked.

### **Defence**

**34.** Subject to regulation 21 of the Management of Health and Safety at Work Regulations 1999<sup>(6)</sup>, in any proceedings for an offence consisting of a contravention of Part 2 of these Regulations, it is a defence for any person to prove that all reasonable precautions were taken and all due diligence was exercised by that person to avoid the commission of that offence.

### **Review**

**35.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of regulations 1 to 34;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Council Directive [2009/148/EC](#) which repealed and replaced Council Directive [83/477/EEC](#) as

(3) S.I. 1983/1649, revoked by 2006/2739.

(4) S.I. 1992/3067, revoked by S.I.2006/2739.

(5) S.I. 2002/2675, revoked by S.I. 2006/2739.

(6) S.I.1999/3242, as amended by S.I. 2003/2457, 2005/1541, 2006/438, 2006/457 and 2006/484.

amended by Council Directive [91/382/EEC](#) and Directive [2003/18/EC](#) of the European Parliament and of the Council, on the protection of workers from the risks of exposure to asbestos at work (which is implemented by means of regulations 1 to 34), is implemented in other Member States.

- (3) The report must in particular—
  - (a) set out the objectives intended to be achieved by the regulatory system established by those regulations;
  - (b) assess the extent to which those objectives are achieved; and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which regulations 1 to 34 come into force.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.