

PART 4.3—ASBESTOS

Division 1—Introductory matters

4.3.1 Application of Part

This Part does not apply to construction or demolition material—

- (a) produced in accordance with an auditable process, determined by the Authority, to verify that asbestos-containing material has been removed from that material; and
- (b) of which less than 0.001% is asbestos-containing material measured using a method determined by the Authority.

Note

The processing of construction or demolition material to remove asbestos-containing material in accordance with the method determined under regulation 4.3.1(b) is covered in Division 8.

Division 2—General requirements

4.3.2 Control risk of exposure—person who manages or controls workplace

(1) A person who manages or controls a workplace—

- (a) must eliminate so far as is reasonably practicable the exposure of persons at the workplace to airborne asbestos fibres; or
- (b) if it is not reasonably practicable to eliminate that exposure, must reduce that exposure so far as is reasonably practicable.

Note

Act compliance—section 26 (see regulation 1.1.7).

(2) Without limiting subregulation (1), a person who manages or controls a workplace must ensure that

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a person at the workplace is not exposed to an atmospheric concentration of asbestos fibres above the asbestos exposure standard.

Note

Act compliance—section 26 (see regulation 1.1.7).

(3) A person who manages or controls a workplace must ensure that a determination of an employee's exposure to airborne asbestos fibres in the workplace is carried out if there is uncertainty (based on reasonable grounds) as to whether the asbestos exposure standard has been exceeded.

Note

Act compliance—sections 21 and 26 (see regulation 1.1.7).

(4) A person who manages or controls a workplace must ensure that copies of the results of atmospheric monitoring are accessible to an

employer at the workplace.

Note

Act compliance—section 26 (see regulation 1.1.7)

4.3.3 Control risk of exposure—employer or selfemployed person

- (1) An employer or self-employed person—
- (a) must eliminate so far as is reasonably practicable the exposure of persons at the workplace to airborne asbestos fibres, arising from the undertaking of the employer or selfemployed person; or
 - (b) if it is not reasonably practicable to eliminate that exposure, must reduce that exposure, so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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- (2) Without limiting subregulation (1), an employer or self-employed person must ensure that a person is not exposed to an atmospheric concentration of asbestos fibres arising from the conduct of the undertaking of the employer or self-employed person above the asbestos exposure standard.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.4 Determination of employee's exposure

An employer must ensure that a determination of an employee's exposure to airborne asbestos fibres in the workplace is carried out if there is uncertainty (based on reasonable grounds) as to whether the asbestos exposure standard has been exceeded.

Note

Act compliance—section 21, 23 and 24 (see regulation 1.1.7).

4.3.5 Results of atmospheric monitoring to be available

An employer must ensure that copies of the results of atmospheric monitoring for airborne asbestos fibres at the workplace are accessible to the health and safety representative of any affected designated work group and to affected employees.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.6 Analysis by approved asbestos analyst

- (1) If an analysis of any sample is required under this Part the analysis must be undertaken by an approved asbestos analyst.
- (2) The analysis results must be reported in accordance with the requirements of NATA or the

scheme under which the analyst was approved.

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Division 3—Prohibitions under the Occupational Health and Safety Act 2004

4.3.7 Asbestos removal work

(1) An employer, a self-employed person or a person who manages or controls a workplace must not perform asbestos removal work, or arrange for asbestos removal work to be performed, in respect of the workplace unless—

(a) the person performing the asbestos removal work—

(i) holds an asbestos removal licence that permits the person to remove the asbestos; or

(ii) is employed by a person who holds such a licence; or

(b) the asbestos removal work is permitted under regulation 4.3.45.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

(2) This prohibition does not apply if the work is for the purpose of sampling and identification.

4.3.8 Removal of contaminated protective clothing

(1) An employer or self-employed person must not remove from a workplace protective clothing contaminated with asbestos unless the clothing is—

(a) disposed of—

(i) as soon as is reasonably practicable; and

(ii) in an appropriate manner that eliminates the release of airborne asbestos fibres; and

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(iii) at a waste disposal site licensed by the Environment Protection Authority; or

(b) laundered at a commercial laundry and for that purpose the clothing is contained so as to eliminate the release of airborne asbestos fibres and the exterior of the container—

(i) is decontaminated before being removed from the work area; and

(ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(2) Subregulation (1) does not apply if the contamination arises from asbestos removal work under Division 7 or the carrying out of asbestos related activities under Division 8.

Note

Divisions 7 and 8 have specific requirements relating to the disposal and laundering of asbestos contaminated clothing.

4.3.9 Use of certain tools or instruments

(1) An employer or self-employed person must not use the following or cause the following to be used on asbestos unless the use is controlled—

- (a) a broom; or
- (b) a brush (except where the brush is used for sealing); or
- (c) a high pressure water jet, power tool or other similar tool or instrument.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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(2) For the purposes of subregulation (1), the use of the tool or instrument is controlled, if, while the tool or instrument is in use—

- (a) the tool or instrument is enclosed; or
- (b) engineering controls are used; or
- (c) a combination of the methods in paragraphs (a) and (b) is used—

so that the employer or self-employed person ensures that a person is not likely to be exposed to more than one half of the asbestos exposure standard.

(3) An employer or self-employed person must not rely on respiratory protection devices to ensure that one half of the asbestos exposure standard is not exceeded.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(4) Subregulations (1) to (3) do not apply to the removal of asbestos undertaken within an enclosed removal area in accordance with Division 7.

(5) An employer or self-employed person must not use or cause to be used compressed air or other gases—

- (a) on asbestos, except in areas enclosed to prevent the release of airborne asbestos fibres from the enclosed area; or

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(b) within 6 metres of an activity involving asbestos unless the use of that air or gas does not result in airborne asbestos fibres that exceed one half of the asbestos exposure standard.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(6) An employer or self-employed person must not rely on respiratory protection devices to control a risk under subregulation (5)(b).

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

Division 4—Prohibitions under the Dangerous Goods

Act 1985

Note

The Australian Government restricts the import and export of asbestos and goods containing asbestos under the Commonwealth Customs (Prohibited Imports) Regulations 1956 and the Commonwealth Customs (Prohibited Exports) Regulations 1958.

Subdivision 1—General

4.3.10 General exclusions

(1) The prohibitions specified in regulations 4.3.12 to 4.3.16 and 4.3.17(3) do not apply for the purpose of—

- (a) scientific analysis or research;
- (b) sampling and identification;
- (c) retention of asbestos samples for demonstration, education or practical training purposes;
- (d) non-asbestos mining or the extraction of stone if asbestos is encountered.

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(2) The prohibitions specified in regulations 4.3.12 to 4.3.17(1) and 4.3.17(3) do not apply to soil from which visible asbestos-containing material has been removed, so far as is reasonably practicable, by the person proposing to supply, store, transport, sell, use or re-use the soil.

Note

Any person supplying, storing, transporting, selling, using or re-using soil must visually inspect the soil and remove any visible asbestos-containing material from the soil.

(3) Regulations 4.3.12(2)(b), 4.3.13(2)(c), 4.3.14(2)(c) and 4.3.15(2)(b) expire on 1 February 2008.

Subdivision 2—Prohibitions

4.3.11 Manufacture of asbestos

(1) A person must not manufacture asbestoscontaining material.

(2) A person who contravenes subregulation (1) is liable to a penalty not exceeding—

(a) 100 penalty units for a natural person; or

(b) 400 penalty units for a body corporate.

4.3.12 Supply of asbestos

(1) Subject to subregulation (2), a person must not supply asbestos to any person.

(2) This prohibition does not apply to—

(a) the supply of asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003;

(b) the supply of brake shoes lined with asbestos for the purpose of re-lining the brake shoes with material that does not contain asbestos.

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(3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—

(a) 100 penalty units for a natural person; or

(b) 400 penalty units for a body corporate.

4.3.13 Storage of asbestos

(1) Subject to subregulation (2), a person must not store asbestos.

(2) This prohibition does not apply to—

(a) the storage of asbestos waste or nondisposable personal protective clothing likely to be contaminated with asbestos that is—

(i) being stored for the purpose of disposal, or in the case of nondisposable personal protective clothing

contaminated with asbestos, stored for the purpose of laundering; and

(ii) stored securely and identified to indicate the likely or actual presence of asbestos; and

(iii) contained so as to eliminate the release of airborne asbestos fibres; and

(iv) disposed of as soon as is reasonably practicable, or, in the case of nondisposable personal protective clothing

contaminated with asbestos, laundered as soon as is reasonably practicable;

(b) asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003;

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(c) the storage of brake shoes lined with asbestos if the brake shoes are—
(i) being stored for the purpose of disposal of the asbestos or awaiting supply in accordance with regulation 4.3.12(2)(b) or transport in accordance with regulation 4.3.14(2)(c); and
(ii) stored securely and identified to indicate the likely or actual presence of asbestos; and
(iii) contained so as to eliminate the release of airborne asbestos fibres.

(3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—

- (a) 100 penalty units for a natural person; or
- (b) 400 penalty units for a body corporate.

4.3.14 Transport of asbestos

(1) Subject to subregulation (2), a person must not transport asbestos.

(2) This prohibition does not apply to—

- (a) the transport of asbestos and asbestos waste for the purpose of disposal or, in the case of non-disposable personal protective clothing contaminated with asbestos, for the purpose of laundering;

Note

The Environment Protection Authority controls the transportation of industrial-sourced asbestos waste. Owners of vehicles that transport industrial-sourced asbestos waste must hold a waste transport permit, unless the vehicle is exempt.

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(b) the transport of asbestos fixed to or installed in a building, structure, vehicle, aircraft, ship or plant as at 31 December 2003;

(c) the transport of brake shoes lined with asbestos for the purpose of re-lining the brake shoes with material that does not contain asbestos.

(3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—

- (a) 100 penalty units for a natural person; or
- (b) 400 penalty units for a body corporate.

4.3.15 Sale of asbestos

(1) Subject to subregulation (2), a person must not sell asbestos.

- (2) This prohibition does not apply to—
- (a) the sale of asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003;
 - (b) the sale of brake shoes lined with asbestos for the purpose of re-lining the brake shoes with material that does not contain asbestos.
- (3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.16 Use of asbestos

- (1) A person must not use asbestos.
- (2) This prohibition does not apply to asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003.

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- (3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.17 Re-use, installation and replacement of asbestos

- (1) A person must not fix asbestos-containing material to, or install asbestos-containing material in, any building, structure, ship, plant, aircraft or vehicle.
- (2) A person must not replace any part of a building, structure, ship, vehicle, aircraft or plant with asbestos-containing material.
- (3) A person must not re-use any asbestos.

Note

When fixed or installed asbestos needs to be replaced, a material that does not contain asbestos must be used.

- (4) A person who contravenes subregulation (1), (2) or (3) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.18 Exemptions for chrysotile

- (1) A person is not required to comply with regulations 4.3.16 and 4.3.17 in relation to asbestos-containing material until 1 January 2008 if—
- (a) the asbestos-containing material contains chrysotile asbestos (but not amphibole asbestos) and is of a type, and for a use, that falls within Category 1 or Category 2 specified in Schedule 6; and

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Reg. 4.3.18

(1)(a)
amended by

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reg. 4(1).
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(b) the person has given a notice to the Authority in accordance with subregulation (2); and

(c) the person receives from the Authority a confirmation of receipt of the notice.

(1A) A person is not required to comply with regulations 4.3.16 and 4.3.17 in relation to asbestos-containing material until 1 January 2011 if—

(a) the asbestos-containing material contains chrysotile (but not amphibole asbestos) and is of a type, and for a use, that falls within Category 3 specified in Schedule 6; and

(b) the person has given a notice to the Authority in accordance with subregulation (2); and

(c) the person receives from the Authority a confirmation of receipt of the notice.

(2) A notice referred to in subregulation (1)(b) or (1A)(b) must state—

(a) the person's name and any registered business name; and

(b) the person's contact details; and

(c) the category specified in Schedule 6 within which the chrysotile asbestos falls; and

(d) the address of the premises where the person will use, fix, install or re-use chrysotile-containing material or will replace any material with chrysotile-containing material; and

(e) the quantity of chrysotile-containing material; and

Reg. 4.3.18

(1A)

inserted by

S.R. No.

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reg. 4(2).

Reg. 4.3.18(2)

amended by

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reg. 4(3).

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(f) if different from paragraph (b), the contact details of the person immediately involved in the use, fixing, installation or reuse of

chrysotile-containing material or in the replacement of any material with chrysotile-containing material; and

(g) the date of the notice; and

(h) the details of any consultation that occurred with the health and safety representative of an affected designated work group, or affected employees if there is no health and safety representative, in relation to the proposed use, fixing, installation or re-use of chrysotile-containing material or replacement of any material with chrysotile-containing material; and

(i) the name and contact details of persons who will supply, store, transport or sell the chrysotile-containing material.

(3) Within 30 days after receiving a notice under subregulation (1)(b) or (1A)(b), the Authority must—

(a) give the person who gave the notice a receipt in writing that states that the Authority confirms receipt of the notice; or

(b) in writing inform the person who gave the notice—

(i) that the Authority defers confirming receipt of the notice under paragraph (a) because the notice contains insufficient information; and

(ii) of what further information is required by the Authority.

Reg. 4.3.18(3)

amended by

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reg. 4(4).

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(4) The person who receives a confirmation of receipt under subregulation (3)(a) must provide a copy of the confirmation of receipt to any other person who supplies, stores, transports or sells chrysotile-containing material on behalf of the firstmentioned person.

(5) A person who is given a copy of a confirmation of receipt under subregulation (4) is not required to comply with regulation 4.3.12, 4.3.13, 4.3.14 or 4.3.15 when supplying, storing, transporting or selling the chrysotile-containing material specified in the confirmation of receipt.

Division 5—Asbestos in workplaces

Subdivision 1—Application of Division

4.3.19 Application of Division

(1) This Division applies to a workplace where asbestos-containing material is fixed or installed in a building, structure, ship or plant.

Note

Plant would include plant that generally forms part of a structure such as a lift, boiler, air-conditioning plant or plant room.

(2) This Division does not apply to a domestic premises that is a workplace only because of work being performed by an employer or self-employed person engaged to perform the work.

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Subdivision 2—Duties of persons who manage or control workplaces

4.3.20 Identification of asbestos

(1) A person who manages or controls a workplace must, so far as is reasonably practicable, identify all asbestos present that is under the person's management or control.

Note

Act compliance—section 26 (see regulation 1.1.7).

(2) If there is uncertainty (based on reasonable grounds) as to whether asbestos is present, or if there are inaccessible areas that are likely to contain asbestos, the person who manages or controls the workplace must—

- (a) assume that asbestos is present; or
- (b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—section 26 (see regulation 1.1.7).

(3) If asbestos is assumed to be present under subregulation (2), it is taken to be identified for the purposes of this Part.

(4) In relation to asbestos that is identified, the person who manages or controls the workplace must determine—

- (a) the location of the asbestos; and
- (b) the likely source of asbestos that is not fixed or installed; and

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(c) in relation to asbestos-containing material—

- (i) the type of asbestos-containing material; and
- (ii) whether the asbestos-containing material is friable or non-friable; and
- (iii) the condition of the asbestos-containing

material; and

(iv) whether the asbestos-containing material is likely to sustain damage or deterioration; and

(d) so far as is possible, any activities likely to be carried out in the workplace that are, in view of their nature or design, likely to damage or disturb the asbestos.

Note

Act compliance—section 26 (see regulation 1.1.7).

(5) In relation to inaccessible areas that are likely to contain asbestos, the person who manages or controls the workplace must comply with subregulations (4)(a) and (4)(b) so far as is possible.

Note

Act compliance—section 26 (see regulation 1.1.7).

(6) In relation to asbestos that is identified, the person who manages or controls the workplace must ensure that—

(a) the presence and location of the asbestos is clearly indicated; and

(b) if reasonably practicable, the indication is by labelling.

Note

Act compliance—section 26 (see regulation 1.1.7).

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4.3.21 Asbestos register

(1) A person who manages or controls a workplace must record in an asbestos register, in accordance with subregulation (2), the results of an identification of asbestos conducted by the person under regulation 4.3.20.

Note

Act compliance—section 26 (see regulation 1.1.7).

(2) The asbestos register must contain—

(a) information in relation to the matters determined under regulation 4.3.20(4);

(b) details of inaccessible areas that are likely to contain asbestos;

(c) the date of each identification.

4.3.22 Asbestos register to be kept current

(1) A person who manages or controls a workplace must revise the asbestos register to keep it current and include any changes of condition and any removal, enclosure or sealing of asbestos.

Note: Act compliance—section 26 (see regulation 1.1.7).

(2) Without limiting subregulation (1), the person who manages or controls a workplace must ensure that the asbestos register is reviewed and, if

necessary, revised at least every 5 years.

Notes

1 Act compliance—section 26 (see regulation 1.1.7).

2 See also the obligation to review and revise the asbestos register under regulation 4.3.35.

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4.3.23 Access to asbestos register

(1) A person who manages or controls a workplace must provide a copy of the asbestos register to—

(a) any employer or self-employed person whose business is located at the workplace; and

(b) an asbestos licence holder engaged to do asbestos removal work; and

(c) a person who is required to obtain a copy under regulation 4.3.103, and who requests a copy from the person who manages or controls the workplace.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

(2) A person who manages or controls a workplace must inform any person engaged to do work at that workplace that involves the risk of exposure to airborne asbestos fibres of the asbestos register and must provide access to that register.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

(3) If access is requested, a person who manages or controls a workplace must provide access to the asbestos register to any other person engaged by that person to do work at that workplace.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

Note

This would include giving access to a "designer" under the Act.

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(4) If a copy is requested, a person who manages or controls a workplace must provide a copy of the asbestos register to an employer or self-employed person who proposes to occupy the workplace.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

4.3.24 Provision of register by person relinquishing management or control

If a person who manages or controls a workplace is intending to relinquish management or control,

that person must provide a copy of the asbestos register to the person, if any, assuming management or control.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

4.3.25 Control of risk

(1) A person who manages or controls a workplace must ensure that any risk associated with the presence of asbestos is eliminated, so far as is reasonably practicable, by removing the asbestoscontaining material.

Note

Act compliance—section 26 (see regulation 1.1.7).

(2) If it is not reasonably practicable to remove the asbestos-containing material, a person who manages or controls a workplace must enclose the material to reduce, so far as is reasonably practicable, any risk associated with the presence of asbestos.

Note

Act compliance—section 26 (see regulation 1.1.7).

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(3) If a person who manages or controls a workplace has enclosed the asbestos-containing material so far as is reasonably practicable and a risk remains, the person who manages or controls the workplace must seal the material to reduce, so far as is reasonably practicable, any risk associated with the presence of asbestos.

Note

Act compliance—section 26 (see regulation 1.1.7).

4.3.26 Review of risk control measures

A person who manages or controls a workplace must ensure that any measures implemented to control risks associated with the presence of asbestos are reviewed, and, if necessary revised—

(a) before any change is made to the workplace or a building, structure, ship or plant at the workplace or a system of work that is likely to disturb or damage any asbestos; or

(b) after any incident occurs to which Part 5 of the Act applies that is associated with the presence of asbestos; or

(c) if, for any other reason, the risk control measures do not adequately control the risks.

Note

Act compliance—section 26 (see regulation 1.1.7).

Subdivision 3—Duties of employer

4.3.27 Identification of asbestos

(1) An employer at any workplace to which this

Division applies must—

(a) if another person manages or controls a workplace, obtain from that person a copy of the asbestos register; and

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(b) so far as is reasonably practicable, identify all asbestos that is under the management or control of the employer, including asbestos-containing material that is fixed to or installed in any plant under the management or control of the employer.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

(2) For the purpose of complying with subregulation (1)(b), if there is uncertainty (based on reasonable grounds) as to whether any material of which the employer has management or control is asbestos, or if there are inaccessible areas that are likely to contain asbestos, the employer must—

(a) assume that asbestos is present; or

(b) arrange for analysis of a sample to be undertaken.

(3) If asbestos is assumed to be present under subregulation (2), it is taken to be identified for the purposes of this Part.

(4) In relation to asbestos that is identified, the employer must determine—

(a) the location of the asbestos; and

(b) the likely source of asbestos that is not fixed or installed; and

(c) in relation to asbestos-containing material—

(i) the type of asbestos-containing material; and

(ii) whether the asbestos-containing material is friable or non-friable; and

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(iii) the condition of the asbestos-containing material; and

(iv) whether the asbestos-containing material is likely to sustain damage or deterioration; and

(d) so far as is possible, any activities likely to be carried out in the workplace that are, in view of their nature or design, likely to damage or disturb any asbestos in the

workplace.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

(5) In relation to inaccessible areas that are likely to contain asbestos, the employer must comply with subregulations (4)(a) and (4)(b) so far as is possible.

(6) In relation to asbestos that is identified under subregulation (1)(b), the employer must ensure that—

(a) the presence and location of the asbestos are clearly indicated; and

(b) if reasonably practicable, the indication is by labelling.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

4.3.28 Information about risks to be given to person who manages or controls workplace

If the employer identifies a risk associated with the presence of fixed or installed asbestos under the control or management of the person who manages or controls the workplace that may occur as a result of an activity carried out by the employer, the employer must inform the person

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who manages or controls the workplace of the risk.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

4.3.29 Employer's asbestos register

(1) An employer must record in an employer's asbestos register, in accordance with subregulation (2), the results of any identification of asbestos conducted by the employer under regulation 4.3.27.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(2) The employer's asbestos register must contain—

(a) information in relation to the matters determined under regulation 4.3.27(4);

(b) details of inaccessible areas that are likely to contain asbestos;

(c) the date when the identification is made;

(d) a copy of any asbestos register obtained under regulation 4.3.27(1)(a);

(e) information in relation to any activity carried out by the employer that could give rise to a risk.

4.3.30 Employer's asbestos register to be kept current

(1) An employer must revise the employer's asbestos register to keep it current and include any changes in the condition of the asbestos and any removal, enclosure or sealing of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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(2) If the health and safety representative for an affected designated work group so requests, on reasonable grounds, the employer must review and, if necessary, revise the employer's asbestos register.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(3) Without limiting subregulations (1) and (2), the employer must ensure that the employer's asbestos register is reviewed and, if necessary, revised at least every 5 years.

Notes

1 Act compliance—sections 21 and 23 (see regulation 1.1.7).

2 See also the obligation to review and revise the employer's asbestos register under regulation 4.3.36.

4.3.31 Access to employer's asbestos register

An employer must—

(a) ensure that a copy of the employer's asbestos register is readily accessible to any employee of the employer; and

(b) provide a copy of the employer's asbestos register to—

(i) the health and safety representative of an affected designated work group;

(ii) an asbestos licence holder who has been engaged to do asbestos removal work;

(iii) a person who is required to obtain a copy under regulation 4.3.103, and who requests a copy; and

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(c) inform any person engaged to do work at the employer's workplace that involves the risk of exposure to airborne asbestos fibres of the employer's asbestos register and provide access to that register; and

(d) if requested, provide access to the employer's asbestos register to any other person engaged

to do work by the employer.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

Paragraph (d) would include giving access to a designer engaged by the employer.

4.3.32 Control of risk

(1) This regulation applies in respect of asbestos of which an employer has management and control.

(2) The employer must ensure that any risk associated with the presence of asbestos is eliminated, so far as is reasonably practicable, by removing the asbestos-containing material.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(3) If it is not reasonably practicable to remove the asbestos-containing material, the employer must enclose the material to reduce, so far as is reasonably practicable, any risk associated with the presence of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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(4) If the employer has enclosed the asbestos-containing material so far as is reasonably practicable and a risk remains, the employer must seal the material to reduce, so far as is reasonably practicable, any risk associated with the presence of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.33 Review of risk control measures

(1) An employer must ensure that any measures implemented to control risks associated with the presence of asbestos are reviewed and, if necessary, revised—

(a) before any change is made to the workplace or a building, structure, ship or plant at the workplace or a system of work that is likely to disturb or damage any asbestos; or

(b) after any incident occurs to which Part 5 of the Act applies that is associated with the presence of asbestos; or

(c) if, for any other reason, the risk control measures do not adequately control the risks;
or

(d) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(2) A health and safety representative may make a

request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—

(a) any of the circumstances referred to in subregulations (1)(a) to (1)(c) exists; or

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(b) the employer has failed—

(i) to properly review risk control measures; or

(ii) to take account of any of the circumstances in subregulations (1)(a) to (1)(c) in conducting a review of, or revising, the risk control measures.

Division 6—Demolition and refurbishment where asbestos is present

4.3.34 Application of Division

(1) This Division applies to the carrying out of demolition or refurbishment on a building, structure, ship or plant where asbestos is fixed or installed.

(2) In this Division, demolition and refurbishment do not include minor or routine maintenance work or other work of a minor nature.

(3) In this Division a reference to *plant* is a reference to plant that generally forms part of a structure.

Example

A lift, boiler, air-conditioning plant or plant room.

(4) For the purposes of this Division, an **emergency** exists if a building or structure is structurally unsound or in danger of imminent collapse as determined—

(a) by an emergency order issued under the

Building Act 1993; or

(b) in a report by a structural engineer.

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4.3.35 Review of asbestos register

(1) Before demolition or refurbishment work commences at a workplace, the person who manages or controls the workplace must—

(a) review the asbestos register; and

(b) revise the asbestos register if it is inadequate having regard to the proposed demolition or refurbishment work.

Example

The asbestos register may be inadequate if it identifies areas that are inaccessible that are likely to contain asbestos and those areas will be accessible as a result of demolition or

refurbishment work.

Note

Act compliance—section 26 (see regulation 1.1.7).

(2) The person who manages or controls a workplace must provide the employer or self-employed person who is to perform demolition or refurbishment work at the workplace with a copy of the asbestos register, including any revisions made under this regulation.

Note

Act compliance—section 26 (see regulation 1.1.7).

4.3.36 Review of employer's asbestos register

(1) Before demolition or refurbishment work commences on plant of which an employer has management or control, the employer must—
(a) review the employer's asbestos register; and

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(b) revise the employer's asbestos register if it is inadequate having regard to the proposed demolition or refurbishment work.

Example

The employer's asbestos register may be inadequate if it identifies areas that are inaccessible that are likely to contain asbestos and those areas will become accessible as a result of the demolition or refurbishment work.

Note

Act compliance—section 21 (see regulation 1.1.7).

(2) The employer must provide the employer or self-employed person who is to perform the demolition or refurbishment work with a copy of the employer's asbestos register, including any revisions made under this regulation.

Note

Act compliance—section 21 (see regulation 1.1.7).

4.3.37 Copies of asbestos registers to be obtained

(1) This regulation applies if an employer or self-employed person is performing demolition or refurbishment work in relation to a building, structure, ship or plant in a workplace.

(2) The employer or self-employed person must obtain from the person who has management or control of the workplace, a copy of the asbestos register, including any revisions made under regulation 4.3.35.

Note

Act compliance—sections 21 and 24 (see regulation 1.1.7).

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(3) The employer or self-employed person must

obtain from an employer who has management or control of plant in relation to which the demolition or refurbishment work is to be performed, a copy of the employer's asbestos register, including any revisions made under regulation 4.3.36.

Note

Act compliance—sections 21 and 24 (see regulation 1.1.7).

4.3.38 Determination of presence of asbestos

(1) This regulation applies if there is no asbestos register or employer's asbestos register in respect of a workplace or plant in relation to which demolition or refurbishment work is to be performed.

(2) The employer or self-employed person performing the demolition or refurbishment work must not commence that work until that employer or self-employed person has determined whether asbestos is fixed to or installed in the building, structure, ship or plant to be demolished or refurbished.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(3) If there is uncertainty (based on reasonable grounds) as to whether asbestos is fixed to or installed in a building, structure, ship or plant to be demolished or refurbished, or if there are inaccessible areas that are likely to contain asbestos that is fixed or installed, the employer or self-employed person performing the demolition or refurbishment work must—

(a) assume that asbestos is present; or

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(b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(4) If asbestos is assumed to be present under subregulation (3), it is taken to be identified for the purposes of this Part.

(5) If the employer or self-employed person performing demolition or refurbishment work has determined under subregulation (2) or subregulation (3) that asbestos is fixed to or installed in a building, structure, ship or plant to be demolished or refurbished, the employer or self-employed person must—

(a) inform the person who has management or control of the workplace that asbestos is fixed to or installed in the building, structure

ship or plant; and
(b) in the case of plant under the management or control of an employer at the workplace, inform the employer that asbestos is fixed to or installed in the plant.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.39 Identification and removal of asbestos before demolition

(1) A person who manages or controls a workplace or plant that forms part of a workplace must—

(a) identify asbestos under that person's management or control that is likely to be disturbed by proposed demolition work; and

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(b) ensure, so far as is reasonably practicable, that the asbestos is removed before the demolition work is commenced.

Note

Act compliance—section 26 (see regulation 1.1.7).

(2) Subregulation (1)(b) does not prevent the demolition of parts of a building, structure, ship or plant in order to gain access to the asbestos.

Example

Part of a wall may be demolished to gain access to asbestos in a riser shaft.

(3) Subregulation (1) does not apply—

(a) in an emergency; or

(b) to domestic premises.

Note

See regulation 4.3.34 for meaning of emergency.

(4) An employer or self-employed person performing demolition work on domestic premises must—

(a) identify asbestos under that person's management or control that is likely to be disturbed by proposed demolition work; and

(b) ensure, so far as is reasonably practicable, that the asbestos is removed before the demolition work is commenced.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(5) Subregulation (4)(b) does not prevent the demolition of part of domestic premises in order to gain access to the asbestos.

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4.3.40 Identification and removal of asbestos before

refurbishment

(1) A person who manages or controls a workplace or plant at a workplace must—

(a) identify asbestos under the person's management or control that is likely to be disturbed by the proposed refurbishment work; and

(b) ensure, so far as is reasonably practicable, that the asbestos is removed.

Note

Act compliance—section 26 (see regulation 1.1.7).

(2) Subregulation (1) does not apply to domestic premises.

(3) An employer or self-employed person performing refurbishment work on domestic premises must—

(a) identify asbestos that is likely to be disturbed by the proposed refurbishment work; and

(b) ensure, so far as is reasonably practicable, that the asbestos is removed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.41 Requirements for asbestos removal work

(1) A person who manages or controls a workplace or plant at a workplace must ensure that asbestos removal work is performed—

(a) by an asbestos licence holder; or

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(b) by a person who is permitted under regulation 4.3.45 to perform the asbestos removal work.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

(2) Subregulation (1) does not apply to domestic premises.

(3) An employer or self-employed person performing demolition or refurbishment work on domestic premises must ensure that asbestos removal work is performed—

(a) by an asbestos licence holder; or

(b) by a person who is permitted under regulation 4.3.45 to perform the asbestos removal work.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

Note

An asbestos licence holder must perform asbestos removal work in accordance with Division 7. A person permitted under regulation 4.3.45 must perform asbestos removal work in accordance with Subdivision 2 of Division 7.

4.3.42 Emergency procedures

(1) If an emergency occurs at a workplace where there was fixed or installed asbestos in a building, structure, ship or plant immediately before the emergency occurred, the person who manages or controls the workplace must—

(a) consider the asbestos register; and

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(b) before demolition occurs, document a procedure that will, so far as is reasonably practicable, reduce the risk of exposure of employees and persons in the vicinity of the demolition site to asbestos to below the asbestos exposure standard.

Notes

1 Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

2 See regulation 4.3.34 for meaning of emergency.

(2) Subregulation (1) does not apply in the case of domestic premises.

(3) A person engaged for the purpose of asbestos removal work as part of an emergency must comply, so far as is reasonably practicable, with Division 7.

Notes

1 Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

2 A person engaged under this subregulation must hold an asbestos removal licence that permits the person to remove the asbestos or be employed by a person who holds such a licence (see regulation 4.3.7) or be permitted to remove the asbestos under regulation 4.3.45.

(4) If an emergency occurs at domestic premises, an employer or self-employed person performing demolition work must, before demolition, document a procedure that will, so far as is reasonably practicable, reduce the risk of exposure of employees and persons in the vicinity of the demolition site to asbestos to below the asbestos exposure standard.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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4.3.43 Notice to Authority

(1) The person who manages or controls a workplace referred to in regulation 4.3.42(1) must notify the Authority, in writing, of the person's contact

details and of the location of the emergency immediately after the emergency is known to that person and before the commencement of demolition.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) An employer or self-employed person performing demolition work on domestic premises must notify the Authority in writing of the person's contact details and of the location of the emergency immediately after the emergency is known to that person and before the commencement of demolition.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 7—Removal of asbestos

Subdivision 1—General

4.3.44 Application of Division

- (1) This Division applies to asbestos removal work.
- (2) This Division does not apply if Division 8 applies.
- (3) In relation to duties imposed on asbestos licence holders under this Division, a reference to an employee in such a provision applies only if the asbestos licence holder is an employer.

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(4) This Division applies in relation to domestic premises that become a workplace due to asbestos removal work being performed.

Note

See regulation 4.3.42 for the application of this Division in an emergency under Division 6.

Subdivision 2—Limited asbestos removal work

4.3.45 Limited asbestos removal work without licence permitted

An employer or self-employed person may perform asbestos removal work in accordance with this Subdivision in relation to non-friable asbestos-containing material if—

- (a) the area of asbestos-containing material to be removed does not exceed 10 square metres in total; and
- (b) the total time over which asbestos removal work is performed in any period of 7 days does not exceed 1 hour.

4.3.46 Training record

An employer performing asbestos removal work must—

- (a) make a record of the training undertaken by each person engaged in the asbestos removal

work; and

(b) retain that record while that work is being performed.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

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4.3.47 Self-employed persons performing asbestos removal work to have appropriate training

(1) A self-employed person must not perform asbestos removal work unless he or she is informed, instructed and trained to perform his or her work in a manner that does not, so far as is reasonably practicable, expose other persons to risks to health and safety arising from that asbestos removal work.

Note

Act compliance—section 24 (see regulation 1.1.7).

(2) A self-employed person performing asbestos removal work must make a record of his or her training referred to in subregulation (1) and retain that record while the person is engaged in asbestos removal work.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

4.3.48 Asbestos register must be obtained

(1) Before performing asbestos removal work under this Subdivision, an employer or self-employed person must obtain a copy of the asbestos register or the employer's asbestos register.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

(2) This regulation does not apply if the asbestos removal work will be performed at domestic premises.

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4.3.49 Provision of information about proposed asbestos removal work

(1) This regulation applies if an employer or self-employed person is commissioned to perform work for a person and plans to remove asbestos that is permitted under regulation 4.3.45 to be removed.

(2) The employer or self-employed person must inform the person who commissioned the work that asbestos removal work will be performed before the commissioned work commences.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(3) A person who has been informed of the proposed asbestos removal work under subregulation (2) must notify employers in the immediate and adjacent areas to where the proposed removal work will take place of the proposed removal work before that removal work commences.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(4) An employer who has been notified of the proposed asbestos removal work in accordance with subregulation (3) must inform employees in the immediate and adjacent areas of the proposed removal work before the removal work commences.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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4.3.50 Protective clothing and protective equipment

An employer must ensure that—

(a) persons performing asbestos removal work are provided with—

(i) appropriate personal protective clothing that is suitable for the removal work being performed; and

(ii) appropriate respiratory protective equipment that is suitable for the removal work being performed; and

(b) the clothing and equipment provided under paragraph (a) are correctly fitted.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.51 Signs

An employer or self-employed person performing asbestos removal work must ensure that appropriately placed signs are used to indicate the area where the removal work is being performed.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.52 Decontamination facilities and non removal of personal protective clothing or equipment

(1) An employer or self-employed person performing asbestos removal work must provide such facilities for decontamination of the work area, tools and equipment and personal decontamination for the duration of the removal work as are suitable for the removal work being performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

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(2) An employer or self-employed person performing asbestos removal work must ensure that a person does not remove personal protective clothing or personal protective equipment that is likely to be contaminated with asbestos from the area where the removal work is being performed unless the clothing or equipment is decontaminated or contained before the removal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.53 Decontamination of equipment

An employer or self-employed person performing asbestos removal work must ensure that any equipment (other than personal protective equipment) that is used for removal work and that is likely to be contaminated is—

(a) decontaminated before removal from the area where the removal work is performed;

or

(b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the area where the removal work is performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.54 Elimination of airborne asbestos fibres

An employer or self-employed person performing asbestos removal work must ensure that removal work is performed in a manner that eliminates the release of airborne asbestos fibres so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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4.3.55 Waste containment

An employer or self-employed person who is performing asbestos removal work must ensure that—

(a) the asbestos waste is contained so as to eliminate the release of airborne asbestos fibres; and

(b) the exterior of the container—

- (i) is decontaminated before being removed from the area where the removal work is performed; and
- (ii) indicates the presence of asbestos.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.56 Disposal of asbestos waste

An employer or self-employed person performing asbestos removal work must ensure that asbestos waste is—

- (a) disposed of as soon as is reasonably practicable; and
- (b) disposed of in an appropriate manner that eliminates the release of airborne asbestos fibres; and
- (c) disposed of at a waste disposal site licensed by the Environment Protection Authority.

Notes

1 Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

2 The Environment Protection Authority controls the transportation of asbestos waste of industrial origin. Owners of vehicles that transport industrial-sourced asbestos waste may need to hold a waste transport permit.

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4.3.57 Laundering of clothing contaminated with asbestos

(1) An employer or self-employed person performing asbestos removal work must provide for the laundering of personal protective clothing that is likely to be contaminated with asbestos and that is not contained and disposed of in accordance with regulations 4.3.55 and 4.3.56.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

(2) If an employer or self-employed person performing asbestos removal work arranges for personal protective clothing that is likely to be contaminated with asbestos to be laundered at a commercial laundry, the employer or person must ensure that—

- (a) the clothing is contained so as to eliminate the release of airborne asbestos fibres; and
- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the area where the removal work is performed; and
 - (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

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4.3.58 Medical examinations

(1) An employer performing asbestos removal work must arrange for appropriate medical examinations to be conducted by a registered medical practitioner for each employee engaged in ongoing asbestos removal work if there is a risk of exposure to airborne asbestos fibres above one half of the asbestos exposure standard.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

(2) Respiratory protective equipment must not be considered in establishing whether there is a risk of exposure to airborne asbestos fibres above one half of the exposure standard.

(3) The purpose of the medical examination is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to asbestos.

(4) The employer must ensure that medical examinations are provided—

(a) before the employee commences asbestos removal work for the first time for that employer unless the employee has had an appropriate medical examination within the preceding 2 years; and

(b) at intervals of not more than 2 years; and

(c) within 30 days after the employee has ceased asbestos removal work unless the employee has had an appropriate medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

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(5) In this regulation the duties of an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.3.59 Notice of medical practitioner

An employer must notify the Authority in writing within 7 days of the name and contact details of the registered medical practitioner the employer has engaged to undertake medical examinations in accordance with regulation 4.3.58.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.60 Results of medical examinations

(1) An employer must ensure that a summary of results of a medical examination of a person carried out as required by regulation 4.3.58 indicating whether an asbestos-related disease exists and the fitness of the person to engage in asbestos removal work is provided to the employer by the registered medical practitioner.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) The employer must retain a copy of the summary of results obtained under this regulation for—

(a) a period (not exceeding 30 years) determined by the Authority; or

(b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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Subdivision 3—Licensed asbestos removal work

4.3.61 Person not to perform asbestos removal work unless licensed

(1) A person must not perform asbestos removal work at a workplace, other than asbestos removal work permitted under Subdivision 2, unless that person—

(a) is an asbestos licence holder; or

(b) is an employee of an asbestos licence holder.

Note

See section 40(4) of the Act.

(2) A person must not perform asbestos removal work of friable asbestos or within a negative air enclosure at a workplace unless that person—

(a) is the holder of a Class A asbestos removal licence; or

(b) is an employee of the holder of a Class A asbestos removal licence.

Note

See section 40(4) of the Act.

4.3.62 Appointment of asbestos removal supervisors

(1) Subject to subregulation (2), an asbestos licence holder must appoint a person as an asbestos removal supervisor if the asbestos licence holder has nominated that person as a supervisor under regulation 6.1.13(1)(b).

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

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(2) An asbestos licence holder must not appoint a person as an asbestos removal supervisor if the Authority has not accepted the nomination of that supervisor under Part 6.1 (Licences).

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.63 Asbestos removal supervisor to be accessible

An asbestos licence holder must ensure that the asbestos removal supervisors appointed to supervise the removal of non-friable asbestoscontaining material are readily accessible to the persons performing the asbestos removal work at all times when that work is being performed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.64 Information to job applicants

An asbestos licence holder must provide each applicant who applies for employment with the licence holder to perform asbestos removal work with information about—

- (a) the health effects and risks associated with exposure to airborne asbestos fibres; and
- (b) the need for, and details of, medical examinations required under this Subdivision.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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4.3.65 Persons performing asbestos removal work to be trained

An asbestos licence holder must ensure that a person does not perform asbestos removal work for the licence holder unless the person is informed, instructed and trained to perform that work in a manner that is safe and without risks to health and in particular in relation to—

- (a) the nature of the hazard, the risks and the health effects associated with exposure to airborne asbestos fibres; and
- (b) the need for, and proper use of, measures to control the risks including the maintenance, cleaning and storage of personal protective clothing and personal protective equipment.

Note

Act compliance—sections 21, 23 and 24 (see

regulation 1.1.7).

4.3.66 Training record to be made

An asbestos licence holder performing asbestos removal work must ensure that a record is made of the training undertaken by a person performing the asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.67 Training record to be retained and made available

An asbestos licence holder performing asbestos work must ensure that the record of training made under regulation 4.3.66 is—

(a) retained while the person performs asbestos removal work for the asbestos licence holder; and

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(b) readily available where the asbestos removal work is being performed.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.68 Asbestos register to be obtained

(1) An asbestos licence holder must ensure that a copy of the asbestos register or the employer's asbestos register is obtained from the person who commissioned the asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) This regulation does not apply if the asbestos removal work will be performed at domestic premises.

4.3.69 Asbestos control plan

(1) Before commencing asbestos removal work, an asbestos licence holder must prepare an asbestos control plan in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(2) An asbestos control plan must—

(a) have regard to any asbestos register or any employer's asbestos register obtained under this Part; and

(b) include information on the items listed in Schedule 7.

(3) Subregulation (2)(a) does not apply if the asbestos removal work will be performed at a domestic premises.

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4.3.70 Asbestos control plan to be made available and accessible

(1) An asbestos licence holder must provide a copy of the asbestos control plan prepared under regulation 4.3.69 to the person who commissioned the asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) The asbestos licence holder must ensure that a copy of the asbestos control plan is readily accessible for the duration of the asbestos removal work—

- (a) to employees at the workplace, including the health and safety representative of any affected designated work group;
- (b) to an employer at the workplace;
- (c) to any person engaged to do work at the workplace;
- (d) for inspection under the Act, if required.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

4.3.71 Elimination of airborne asbestos fibres

An asbestos licence holder performing asbestos removal work must ensure that the asbestos removal work is performed in a manner that, so far as is reasonably practicable—

- (a) eliminates the release of airborne asbestos fibres; and
- (b) prevents the contamination of areas adjacent to the asbestos removal area.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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4.3.72 Requirements in respect of airborne asbestos fibres

(1) This regulation applies if—

- (a) an asbestos licence holder is performing asbestos removal work; and
- (b) asbestos paraoccupational air monitoring is being conducted to establish whether airborne asbestos fibres are being released from the area where the asbestos removal work is being performed.

(2) The asbestos licence holder must comply with subregulation (4) if airborne asbestos fibre levels in excess of 0.01 f/ml but not in excess of 0.05 f/ml are recorded.

Note

Act compliance—sections 21, 23 and 24 (see

regulation 1.1.7).

(3) If airborne asbestos fibre levels in excess of 0.05 f/ml are recorded, the asbestos licence holder must immediately—

- (a) order the asbestos removal work to stop; and
- (b) notify the Authority; and
- (c) comply with subregulation (4).

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(4) The asbestos licence holder must immediately—

- (a) investigate the cause of the high levels of airborne asbestos fibres; and
- (b) implement controls to—
 - (i) prevent exposure of any person to airborne asbestos fibres; and
 - (ii) prevent further release of airborne asbestos fibres.

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(5) If an asbestos licence holder has stopped the asbestos removal work due to airborne asbestos fibre levels in excess of 0.05 f/ml being recorded, the licence holder must ensure that the asbestos removal work does not recommence until asbestos paraoccupational air monitoring indicates the level of airborne asbestos fibres is at or below 0.01 f/ml.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

4.3.73 Protective clothing and protective equipment for employees

The asbestos licence holder must—

- (a) provide employees with—
 - (i) appropriate personal protective clothing that is suitable for the asbestos removal work being performed; and
 - (ii) appropriate respiratory protective equipment that is suitable for the asbestos removal work being performed; and
- (b) ensure that the clothing and equipment provided under paragraph (a) are correctly fitted.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

4.3.74 Signs and barricades

An asbestos licence holder performing asbestos removal work must ensure that—

- (a) appropriately placed signs and barricades are used to indicate the area where the removal

work is being performed; and

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(b) access is denied to persons other than—

(i) persons performing the asbestos removal work; and

(ii) persons engaged in work incidental to the asbestos removal work who require access during that work; and

Example

Occupational hygienist.

(iii) officers or other members of Victoria Police or persons with a statutory right to be present.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

4.3.75 Decontamination facilities

(1) An asbestos licence holder performing asbestos removal work must provide such facilities for decontamination of the work area, tools and equipment and personal decontamination for the duration of the removal work as are appropriate to the removal work being performed.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

(2) An asbestos licence holder performing asbestos removal work must ensure that a person does not remove personal protective clothing or personal protective equipment that is likely to be contaminated with asbestos from the area where the removal work is being performed unless the clothing or equipment is decontaminated or contained before removal.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

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(3) An asbestos licence holder performing asbestos removal work must ensure that any equipment (other than personal protective equipment) that is used for removal work and that is likely to be contaminated is—

(a) decontaminated before removal from the area where the removal work is performed;

or

(b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the area where the removal

work is performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.76 Waste containment

An asbestos licence holder who is performing asbestos removal work must ensure that—

(a) the asbestos waste is contained so as to eliminate the release of airborne asbestos fibres; and

(b) the exterior of the container—

(i) is decontaminated before being removed from the area where the removal work was performed; and

(ii) indicates the presence of asbestos.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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4.3.77 Disposal of asbestos waste

An asbestos licence holder performing asbestos removal work must ensure that asbestos waste is—

(a) disposed of as soon as is reasonably practicable; and

(b) disposed of in an appropriate manner that eliminates the release of airborne asbestos fibres; and

(c) disposed of at a waste disposal site licensed by the Environment Protection Authority.

Notes

1 Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

2 The Environment Protection Authority controls the transportation of asbestos waste of industrial origin.

Owners of vehicles that transport industrial-sourced asbestos waste must hold a waste transport permit.

4.3.78 Laundering of clothing contaminated with asbestos

(1) An asbestos licence holder performing asbestos removal work must provide for the laundering of personal protective clothing that is likely to be contaminated with asbestos and that is not contained and disposed of in accordance with regulations 4.3.76 and 4.3.77.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

(2) If an asbestos licence holder performing asbestos removal work arranges for personal protective clothing that is likely to be contaminated with asbestos to be laundered at a commercial laundry,

the licence holder must ensure that—

(a) the clothing is contained so as to eliminate

the release of airborne asbestos fibres; and

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(b) the exterior of the container—

(i) is decontaminated before being removed from the area where the removal work is performed; and

(ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Penalty: 100 penalty units for a natural person;

500 penalty units for a body corporate.

4.3.79 Medical examinations

(1) An asbestos licence holder must arrange for an appropriate medical examination for each employee engaged in asbestos removal work.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

(2) The purpose of the medical examination is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to asbestos.

(3) An asbestos licence holder must ensure that medical examinations are provided—

(a) before the employee commences asbestos removal work for the first time for that licence holder unless the employee has had an appropriate medical examination within the preceding year; and

(b) at intervals of not more than 2 years; and

(c) within 30 days after the employee ceases asbestos removal work unless the employee has had an appropriate medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

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(4) In this regulation the duties of an asbestos licence holder who is an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.3.80 Notice of medical practitioner

The asbestos licence holder must notify the Authority in writing within 7 days of the name and contact details of the registered medical practitioner the licence holder has engaged to undertake medical examinations in accordance

with regulation 4.3.79.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.81 Results of medical examinations

(1) The asbestos licence holder must ensure that a summary of results of a medical examination of a person carried out as required by regulation 4.3.79, indicating whether an asbestos-related disease exists and the fitness of the person to engage in asbestos removal work, is provided to the asbestos licence holder by the registered medical practitioner.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) The asbestos licence holder must retain a copy of the summary of results obtained under this regulation for—

(a) a period (not exceeding 30 years) determined by the Authority; or

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(b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 4—Additional duties—friable material

4.3.82 Application of Subdivision

This Subdivision applies to asbestos removal work involving friable asbestos-containing material.

Note

A Class A asbestos removal licence is required for this removal work.

4.3.83 Asbestos removal supervisor to be on-site

An asbestos licence holder must ensure that an asbestos removal supervisor appointed in accordance with regulation 4.3.62 to supervise the asbestos removal work is on-site at all times when asbestos removal work is being performed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.84 Specific measures to control risk

(1) An asbestos licence holder must ensure, so far as is reasonably practicable, that the area where the asbestos removal work is performed is enclosed so as to prevent the release of airborne asbestos fibres.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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(2) For the purposes of subregulation (1), an asbestos licence holder must, so far as is reasonably practicable, ensure that the enclosure is smoketested by using a smoke generating device to detect any leaks or other deficiencies in the enclosure before asbestos removal work commences.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(3) An asbestos licence holder must ensure that the removal work of friable asbestos-containing material is performed, so far as is reasonably practicable, using a wet method.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(4) For the purposes of subregulation (3), **wet method** means the use of water or another wetting agent to soak or totally saturate the asbestos, or the spraying of water or another wetting agent on the asbestos, but does not include the use of a high pressure water jet.

Note

Regulation 4.3.9 prohibits the use of certain tools.

4.3.85 Air monitoring required before commencement of removal work

If asbestos paraoccupational air monitoring is required under regulation 4.3.91 the asbestos licence holder must not commence asbestos removal work until that monitoring has commenced.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

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4.3.86 Results air monitoring to be readily accessible

The asbestos licence holder must ensure that results of asbestos paraoccupational air monitoring are readily accessible to employees at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.87 Use of glove bags

(1) Regulations 4.3.84(2), 4.3.85 and 4.3.91 do not apply if glove bags are being used for removal work.

(2) The asbestos licence holder must, in a proper and

safe manner, dismantle and dispose of any glove bag used to enclose the area where the asbestos removal work was performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.88 Requirements at the end of removal work

(1) The asbestos licence holder must not dismantle any structure used to enclose the area where the asbestos removal work was performed until results of any asbestos paraoccupational air monitoring received from the person who commissioned the work in accordance with regulation 4.3.94 show that the airborne asbestos fibre level does not exceed 0.01 f/ml.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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(2) The asbestos licence holder must dismantle any structure used to enclose the asbestos removal area in a manner that eliminates the release of airborne asbestos fibres so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

Subdivision 5—Duties of person who commissioned asbestos removal work

4.3.89 Application of Subdivision

(1) The duties in this Subdivision apply to a person who commissions asbestos removal work, other than work permitted under regulation 4.3.45.

(2) In the case of domestic premises, the asbestos licence holder is the person who commissions asbestos removal work for the purposes of this Subdivision.

4.3.90 Employers in immediate and adjacent areas to be informed

A person who commissions asbestos removal work must, before the asbestos removal work commences, inform all employers in the immediate and adjacent areas of the proposed removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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4.3.91 Asbestos paraoccupational air monitoring

(1) A person who commissions asbestos removal work with respect to friable asbestos-containing material must arrange for asbestos paraoccupational air monitoring to be conducted before the work commences and for the duration of the work if—

- (a) the asbestos removal work will be performed indoors; or
- (b) the asbestos removal work will be performed outdoors and will constitute a risk to other persons.

Note

Act compliance—sections 22(1) and 26 (see regulation 1.1.7).

(2) A person who commissions asbestos removal work must arrange for an asbestos paraoccupational air monitoring sample to be analysed as soon as is reasonably possible after it is taken.

Note

Act compliance—sections 22(1) and 26 (see regulation 1.1.7).

4.3.92 Results of monitoring to be made available

(1) A person who commissions asbestos removal work must provide the results of asbestos paraoccupational air monitoring to the asbestos licence holder as soon as the results are received. Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

(2) A person who commissions asbestos removal work must ensure that a copy of the results of asbestos paraoccupational air monitoring is accessible to the health and safety representative

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of any affected designated work group and to any affected employees.

Penalty: 60 penalty units for a natural person; 300 penalty units for a body corporate.

4.3.93 Requirements at end of removal work

(1) This regulation applies to asbestos removal work of—

- (a) friable asbestos-containing material; or
- (b) more than 10 square metres of non-friable fixed or installed asbestos-containing material.

(2) On completion of the asbestos removal work, the person who commissioned the work must arrange for a visual inspection by an independent person to verify that there is no visible asbestos residue remaining as a result of the work in the area where

the work was performed or in the area immediately surrounding the area where the work was performed.

Note

Act compliance—sections 21, 23, 24 and 26 (see regulation 1.1.7).

(3) On completion of asbestos removal work for which asbestos paraoccupational air monitoring was required, the person who commissioned the work must arrange for asbestos paraoccupational air monitoring to be conducted within the enclosed area, to verify that the airborne asbestos fibre level is less than 0.01 f/ml.

Note

Act compliance—sections 22(1) and 26 (see regulation 1.1.7).

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4.3.94 Results of monitoring to go to licence holder

The person who commissioned the asbestos removal work must ensure that the results of the inspection and monitoring under regulation 4.3.93 are provided to the asbestos licence holder.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.95 Independent person to be qualified

The person who commissioned the asbestos removal work must ensure that the independent person performing duties under regulation 4.3.93 or regulation 4.3.96 has the requisite knowledge, skills and experience to undertake those duties.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.96 Clearance certificates

(1) This regulation applies to asbestos removal work of—

- (a) friable asbestos-containing material; or
- (b) more than 10 square metres of non-friable fixed or installed asbestos-containing material.

(2) The person who commissioned the asbestos removal work must obtain a clearance certificate from an independent person before the area where the asbestos removal work was being performed is re-occupied.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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(3) A clearance certificate must state that—
(a) an inspection by an independent person has found that there is no visible asbestos residue remaining as a result of the asbestos removal work in the area where the asbestos removal work was performed or in the area immediately surrounding the area where the asbestos removal work was performed; and
(b) if applicable, asbestos paraoccupational air monitoring in the area where the asbestos removal work was performed indicates that the airborne asbestos fibre level is less than 0.01 f/ml.

Subdivision 6—Notification procedures

4.3.97 Notification of asbestos removal work

(1) Subject to subregulation (5) and regulation 4.3.98(2), the asbestos licence holder must notify the Authority of asbestos removal work in accordance with subregulation (2)—

(a) if the work involves removal of a total area of 10 square metres or less of non-friable asbestos-containing material that is fixed or installed in a building, structure, ship or plant, at least 24 hours before the work commences; or

(b) in any other case, at least 5 days before the work commences.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) A notification under subregulation (1) must be in writing and include the information in Schedule 8.

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(3) Before commencing the asbestos removal work, the asbestos licence holder must give a copy of the notification under subregulation (1) to the person who commissioned the work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(4) An asbestos licence holder may proceed with the asbestos removal work despite notifying the Authority of a change under regulation 7.1.3.

(5) The Authority may vary the notification requirements under this regulation by including a specific condition in a licence with respect to notification.

4.3.98 Notification in an unexpected situation

(1) This regulation applies to the following situations (an *unexpected situation*)—

(a) a sudden, unexpected event, including work

required by non-routine failures of equipment, that may result in persons being exposed to airborne asbestos fibres; or
(b) an unexpected breakdown of an essential service (including gas, water, sewerage, electricity and telecommunications) that requires immediate rectification to enable continuance of that service.

(2) In an unexpected situation, the asbestos licence holder must, not later than 24 hours after commencing asbestos removal work, notify the Authority of the removal work in accordance with subregulation (3).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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(3) A notification under subregulation (2) must be in writing and include the information in Schedule 8.

(4) The Authority may vary the notification requirements under this regulation by including a specific condition in a licence with respect to the notification.

Subdivision 7—Duty of employer at a workplace to inform
4.3.99 Information to be provided to those in area

An employer at a workplace must, before asbestos removal work commences at the workplace, inform employees in the immediate and adjacent areas of the workplace of the proposed removal work.

Note

Act compliance—section 21 (see regulation 1.1.7).

Division 8—Activities involving asbestos

4.3.100 Application of Division

This Division applies to the following activities (***asbestos-related activities***) that are carried out at a workplace—

- (a) the handling, including for the purpose of removal or transport for disposal, of aircraft and automotive components that are asbestos-containing material or that have asbestos-containing material fixed to them or installed in them;
- (b) the laundering of clothing contaminated with asbestos;
- (c) research involving asbestos;
- (d) sampling or analysis involving suspected asbestos;

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- (e) the transport of asbestos waste for disposal purposes;
- (f) working at a site licensed by the Environment Protection Authority to accept asbestos waste;
- (g) the enclosing or sealing of asbestos;
- (h) hand drilling and cutting of asbestoscontaining material;
- (i) maintenance of dust extraction equipment, contaminated with asbestos;
- (j) processing of construction and demolition material in accordance with the method determined by the Authority under regulation 4.3.1(b);
- (k) any other activity (other than asbestos removal work to which Division 7 applies) that is likely to produce airborne asbestos fibres in excess of one half of the asbestos exposure standard;
- (l) any other activity determined by the Authority for the purposes of this Division.

Note

The general requirements of Divisions 1 and 2, and the prohibitions in Divisions 3 and 4, also apply to the activities listed in this Division.

4.3.101 Identification of asbestos-related activities

An employer must identify whether an asbestosrelated activity is being carried out at the employer's workplace.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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4.3.102 Uncertainty as to presence of asbestos

If there is uncertainty (based on reasonable grounds) as to whether an activity is an asbestosrelated activity, the employer must—

- (a) assume that asbestos is present; or
- (b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.103 Asbestos register must be obtained

(1) If any asbestos-related activities set out in subregulation (2) are carried out at an employer's workplace, the employer must obtain—

- (a) a copy of the asbestos register in relation to the activities; or
- (b) if there are other employers at the workplace

where the activities are carried out, a copy of the employer's asbestos register of each of those other employers.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(2) For the purposes of subregulation (1) the relevant asbestos-related activities are—

- (a) activities specified in paragraphs (d), (g) and (h) of regulation 4.3.100;
- (b) activities specified in paragraphs (c), (k) and (l) of regulation 4.3.100, if an asbestos register or employer's asbestos register is available.

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(3) This regulation does not apply if the asbestos-related activity will be carried out at a domestic premises and the person who commissioned the activity is the occupier of those premises.

4.3.104 Elimination of airborne asbestos fibres

An employer must ensure that, when carrying out an asbestos-related activity, the activity is carried out in a manner that eliminates so far as is reasonably practicable the release of airborne asbestos fibres.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.105 Specific measures to control risk

(1) An employer must ensure that any risk associated with an asbestos-related activity is eliminated so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(2) If it is not reasonably practicable to eliminate a risk associated with an asbestos-related activity, an employer must ensure that the risk is reduced so far as is reasonably practicable by—

- (a) isolation; or
- (b) using engineering controls; or
- (c) combining the risk control measures in paragraphs (a) and (b).

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(3) If an employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with an asbestos-related activity remains, the employer must, so far as is

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reasonably practicable, use administrative controls to reduce the risk.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(4) If an employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with an asbestos-related activity remains, the employer must reduce the risk by providing personal protective equipment to employees at risk.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(5) If an employer provides personal protective equipment under subregulation (4), the employer must ensure that—

(a) the person carrying out the asbestos-related activity is provided with—

(i) appropriate personal protective clothing that is suitable for the activity being carried out; and

(ii) appropriate respiratory protective equipment that is suitable for the activity being carried out; and

(b) the clothing and equipment provided under paragraph (a) are correctly fitted.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.106 Review of risk control measures

(1) An employer must ensure that any measures implemented to control a risk associated with an asbestos-related activity are reviewed and, if necessary, revised—

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(a) before any alteration is made to systems of work related to the activity that is likely to result in any increased risk to health or safety; or

(b) after any incident occurs to which Part 5 of the Act applies that involves an asbestos-related activity; or

(c) if, for any other reason, the risk control measures do not adequately control the risks;

or

(d) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable

grounds that—

(a) any of the circumstances referred to in subregulations (1)(a) to (1)(c) exists; or

(b) the employer has failed—

(i) to properly review risk control measures; or

(ii) to take account of any of the circumstances in subregulations (1)(a) to (1)(c) in conducting a review of, or revising, the risk control measures.

4.3.107 Work area to be separate and signed

An employer must ensure that the work area used for an asbestos-related activity—

(a) is kept separate from any other work area; and

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(b) so far as is reasonably possible, has appropriately placed signs and barricades that indicate the area where the activity is being carried out.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.108 Work area to be kept clean

(1) An employer must, so far as is reasonably practicable, ensure that the work area used for an asbestos-related activity is kept clean.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

(2) An employer must ensure that the methods used to clean the work area—

(a) do not create a risk to health; and

(b) do not have the potential to spread airborne asbestos fibres beyond the work area.

Notes

1 Act compliance—sections 21 and 23 (see regulation 1.1.7).

2 Regulation 4.3.9 prohibits the use of certain tools at a workplace.

4.3.109 Medical examinations

(1) An employer must arrange for an appropriate medical examination to be conducted by a registered medical practitioner for each employee engaged in ongoing asbestos-related activities if there is a risk of exposure to airborne asbestos fibres above one half of the asbestos exposure standard.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

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(2) Respiratory protective equipment must not be considered in establishing whether there is a risk of exposure to airborne asbestos fibres above one half of the asbestos exposure standard.

(3) The purpose of the medical examination is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to asbestos.

(4) An employer must ensure that atmospheric monitoring at the workplace is provided if there is uncertainty (based on reasonable grounds) as to whether a medical examination may be required under this Division.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

(5) An employer must ensure that medical examinations are provided to an employee—
(a) at intervals of not more than 2 years; and
(b) within 30 days after the employee has ceased an asbestos-related activity, unless the employee has had a medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

(6) In this regulation the duties of an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.3.110 Results of atmospheric monitoring to be made available

An employer must ensure that copies of the results of atmospheric monitoring are accessible to the health and safety representative of any affected

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designated work group and to the affected employees.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.111 Notice of medical practitioner

The employer must notify the Authority in writing within 7 days of the name and contact details of the registered medical practitioner the employer has engaged to undertake medical examinations in accordance with regulation 4.3.109.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.112 Results of medical examination

(1) An employer must ensure that a summary of results of a medical examination indicating whether an asbestos-related disease exists and the employee's fitness for asbestos-related activities, is provided to the employer by the registered medical practitioner.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) The employer must retain a copy of the summary of results obtained under subregulation (1) for—

(a) a period (not exceeding 30 years) determined by the Authority; or

(b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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4.3.113 Decontamination facilities

(1) An employer carrying out an asbestos-related activity must ensure that a person does not remove personal protective clothing or personal protective equipment that is likely to be contaminated with asbestos from the work area used for the asbestos-related activity unless the clothing or equipment is decontaminated or contained before its removal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

(2) An employer carrying out an asbestos-related activity must ensure that any equipment (other than personal protective equipment) that is used for the asbestos-related activity and that is likely to be contaminated with asbestos is—

(a) decontaminated before removal from the work area used for the asbestos-related activity; or

(b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the work area used for the asbestos-related activity.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.114 Waste containment

An employer carrying out an asbestos-related activity must ensure that—

(a) any asbestos derived from or associated with the activity, and that is no longer required in connection with the activity, is contained so as to eliminate the release of airborne asbestos fibres; and

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(b) the exterior of the container—

(i) is decontaminated before being removed from the work area used for the activity; and

(ii) indicates the presence of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.115 Disposal of asbestos waste

An employer carrying out an asbestos-related activity must ensure that asbestos waste is—

(a) disposed of as soon as is reasonably practicable; and

(b) disposed of in an appropriate manner that eliminates the release of airborne asbestos fibres; and

(c) disposed of at a waste disposal site licensed by the Environment Protection Authority.

Notes

1 Act compliance—sections 21 and 23 (see regulation 1.1.7).

2 The Environment Protection Authority controls the transportation of asbestos waste of industrial origin. Owners of vehicles that transport industrial-sourced asbestos waste must hold a waste transport permit.

4.3.116 Laundering of clothing contaminated with asbestos

(1) An employer carrying out an asbestos-related activity must provide for the laundering of personal protective clothing that is used for an asbestos-related activity and that is likely to be contaminated with asbestos and that is not contained and disposed of in accordance with regulations 4.3.114 and 4.3.115.

Penalty: 100 penalty units for a natural person; 500 penalty units for a body corporate.

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(2) If the employer arranges for personal protective clothing that is likely to be contaminated with asbestos to be laundered at a commercial laundry, the employer must ensure that—

(a) the clothing is contained so as to eliminate the release of airborne asbestos fibres; and

(b) the exterior of the container—

(i) is decontaminated before being removed from the work area; and

(ii) indicates the presence of asbestos before the clothing is transferred to the

laundry.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.117 Provision of information to job applicants

An employer must provide each applicant who applies for employment with the employer to carry out an asbestos-related activity (other than activities specified in paragraphs (h) and (k) of regulation 4.3.100) with information about the nature of the hazard and the risks associated with exposure to airborne asbestos fibres.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.118 Training record

An employer must—

(a) make a record of training provided in relation to carrying out asbestos-related activities in accordance with regulation 2.1.2; and

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(b) retain that record for so long as it is applicable.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

r. 4.3.118