

Guidance Notes

What Regulations Cover Asbestos?

Legal Requirements

- The Control of Asbestos Regulations 2006 is the main set of regulations covering work with asbestos. This was first introduced in CAWR 2002 included a new regulation (Regulation 4) from 2004 – The Duty to Manage Asbestos.
- Construction (Design and Management) Regulations 2007 Sets out health and safety responsibilities to various members of the project team, but is not clear as to Reg 4 dutyholder!
- The Defective Premises Act 1972 places a duty on Landlords to take reasonable care to see that Tenant and other people are safe from personal injury or disease caused by defect in the state of the premises.
- Control of Asbestos Regulations 2006, Regulation 4, The Duty to Manage Asbestos in Non-domestic Premises.
- All asbestos in every workplace must be incorporated into the dutyholders' Asbestos Management Plan.
- There is usually more than one dutyholder, and all have a legal duty to co-operate to enable all to discharge their responsibilities.

Duty to Manage

The requirement is that dutyholders identify all ACMs and presumed ACMs in their premises, record their location and condition, undertake a risk assessment, prepare and implement a plan to manage the risks and ensure that the information is passed down to those who could come into contact with any ACMs.

Who will have the duty?

- The dutyholder is anyone who has, by virtue of any contract or tenancy agreement, an obligation of any extent in relation to the maintenance or repair of premises.
- Depending on the contract, the dutyholder could be the owner of a building, the managing agent, tenant etc. It is intended that the existing contractual arrangements for dealing with building related matters be reflected in respect of the duty to manage asbestos.
- Regulation 4(2) places a duty on all others to co-operate with the dutyholder so they are able to comply with their duties under the regulation.

Asbestos Management

The asbestos management plan must ensure that all ACMs within a building are managed for the entire time period ACMs remain in the building.

- The 'Duty to Manage' requires a written plan to be produced with a named responsible individual.
- The plan must specify the measures to be taken to control and manage the asbestos identified.
- The potential release of fibres must therefore be assessed and confirm what you already know about the ACMs on your premises and review how you are currently managing them. You may need to prevent work on your premises that may disturb the fabric of the building until measures to contain them have been implemented. Carry out a Risk Assessment of your ACMs. To set Priorities for your Management Plan.

Key Points

- If you do NOT manage Asbestos in your premises, you are putting the health of your employees and others at risk.
 - Exposure to Asbestos occurs when you or others disturb it, releasing fibres into the air we breathe.
 - Asbestos in good condition should be left in place and managed.
 - Most work with Asbestos requires a licence, except for some minor works, if correct precautions are taken.
 - Regulation 4 of the CAR Regs is a DUTY TO MANAGE, NOT a duty to survey. You do not have to do a survey, BUT you MUST manage ALL your ACMs.
- You MUST maintain your ACMs in good condition to protect two groups of people.
- Those who work on the fabric i.e. electricians, plumbers etc.
 - Those who work in, or visit the building i.e. office workers, cleaners, children, teachers, public etc.
 - Deteriorated ACMs should be repaired, removed or isolated.

Your Asbestos Management Plan:

- Ensure that your employees and others do NOT disturb your ACMs.
- The ACM management needs to be effective and monitored.

Types of Asbestos Surveys

- Management Survey: The purpose is to locate, the presence and extent of any suspect ACMs in the building which could be damaged or disturbed during normal occupancy, including foreseeable maintenance and installation, and to assess their condition.
- Refurbishment / Demolition Survey: is needed before ANY refurbishment or demolition work is carried out. This type of survey is used to locate and describe, all ACMs in the area where the refurbishment work will take place or in the whole building if demolition is planned. The survey will be fully intrusive and involve destructive inspection, as necessary, to gain access to all areas, including those that may be difficult to reach. A refurbishment and demolition survey may also be required in other circumstances, e.g. when more intrusive maintenance and repair work will be carried out or for plant removal or dismantling.
- The only way to ensure competence for Inspection Bodies is UKAS accreditation to BS EN ISO 17020.

Material / Priority Assessment Algorithms

Once all ACMs in a building have been located, Regulation 4 requires the dutyholder to carry out a risk assessment for all ACMs. The material assessment looks at an ACMs ability to release asbestos fibres if disturbed. The priority assessment is the likelihood and frequency of that disturbance occurring.

Further Help

ATAC's members offer independent impartial advice on all aspects of asbestos management, remediation and asbestos removal.

Please visit www.atac.org.uk to find a member who can help you.