

1999 No. 2373

HEALTH AND SAFETY

The Asbestos (Prohibitions) (Amendment) Regulations 1999

<i>Made - - - -</i>	<i>24th August 1999</i>
<i>Laid before Parliament</i>	<i>24th August 1999</i>
<i>Coming into force</i>	<i>24th November 1999</i>

The Secretary of State, in the exercise of the powers conferred on him by sections 15(1), (2) and (5)(b) and 82(3)(a) of, and paragraphs 1(1) and 2 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) (“the 1974 Act”) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Asbestos (Prohibitions) (Amendment) Regulations 1999 and shall come into force on 24th November 1999.

Amendments to the Asbestos (Prohibitions) Regulations 1992

2.—(1) The Asbestos (Prohibitions) Regulations 1992(b) shall be amended in accordance with the following paragraphs of this regulation.

(2) At the end of regulation 2(1), there shall be added the following definition—

“ “supply” means supply by way of sale, lease, hire, hire-purchase, loan, gift or exchange for a consideration other than money, whether (in all cases) as principal or as agent for another.”.

(3) For regulation 3, there shall be substituted the following regulation—

“Prohibition of the importation of asbestos

3.—(1) The importation into the United Kingdom of crude, fibre, flake, powder or waste amphibole asbestos and of any product containing amphibole asbestos is prohibited and any contravention of this paragraph shall be punishable under the Customs and Excise Management Act 1979(c) and not as a contravention of a health and safety regulation.

(2) Subject to the provisions of the Schedule to these Regulations, the importation into the United Kingdom of crude, fibre, flake, powder or waste chrysotile and of any product containing chrysotile is prohibited and any contravention of this paragraph shall be punishable under the Customs and Excise Management Act 1979 and not as a contravention of a health and safety regulation.”.

(4) In regulation 4, after the word “supply”, there shall be inserted the words “, other than solely for the purpose of disposal.”.

(a) 1974 c. 37; sections 15 and 50 were amended by section 116 of, and paragraphs 6 and 16 respectively of Schedule 15 to, the Employment Protection Act 1975 (c. 71).

(b) S.I. 1992/3067.

(c) 1979 c. 2.

(5) In regulation 5(2), for the words “containing amphibole asbestos”, there shall be substituted the words “to which amphibole asbestos has intentionally been added”.

(6) For regulation 7, there shall be substituted the following regulation—

“7.—(1) Subject to the provisions of the Schedule to these Regulations, no person shall supply or use—

(a) chrysotile; or

(b) any product to which chrysotile has intentionally been added,

unless it was in use before 24th November 1999.

(2) Notwithstanding paragraph (1) above, no person shall use—

(a) asbestos cement;

(b) any board, panel or tile, all or part of which has been painted with paint containing chrysotile; or

(c) any board, panel or tile, all or part of which has been covered in a textured finishing plaster used for decorative purposes and containing chrysotile,

unless it is installed in or forms part of any premises or plant and, before 24th November 1999, it was installed in or formed part of those same premises or that same plant.

(3) Notwithstanding paragraph (1) above, no person shall supply or use any product to which chrysotile has been intentionally added, the supply or use of which was prohibited by these Regulations as in force immediately before 24th November 1999.

(4) Paragraphs (1) to (3) above shall not apply to any activity in connection with the disposal of crude, fibre, flake, powder or waste chrysotile or of any product to which chrysotile has intentionally been added.

(5) In this regulation, “asbestos cement” means a material which is predominantly a mixture of cement and chrysotile and which when in a dry state has a density greater than 1 tonne per cubic metre.”.

(7) At the end of regulation 8, there shall be added the following paragraphs—

“(3) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt—

(a) Her Majesty’s Forces or visiting forces from all or any of the requirements or prohibitions imposed by these Regulations;

(b) any other person connected with the production of or trade in arms, munitions or war materials from all or any of the requirements or prohibitions imposed by regulations 3(2), 7(1), 7(2) and 7(3);

and any such exemption may be granted subject to conditions and to a limit of time.

(4) An exemption granted in accordance with paragraph (3) of this regulation may be varied or revoked at any time by a certificate in writing.

(5) In this regulation, any reference to “visiting forces” is a reference to visiting forces within the meaning of any provision of Part I of the Visiting Forces Act 1952(a).”.

(8) For the Schedule, there shall be substituted the Schedule set out in the Schedule to these Regulations.

24th August 1999

John Prescott
Secretary of State for the Environment,
Transport and the Regions

(a) 1952 c. 67.

THE SCHEDULE

Regulation 2(8)

“THE SCHEDULE

Regulations 3(2) and 7(1)

DEROGATION FROM THE PROHIBITIONS ON THE IMPORTATION, SUPPLY AND USE OF CHRYSOTILE

1. Regulation 3(2) shall not apply to—
 - (a) the products described in paragraph 3 of this Schedule, except for use with chlorine, until 1st January 2001;
 - (b) the products described in paragraph 3 of this Schedule which are for use with chlorine until 1st January 2003;
 - (c) chrysotile, or products containing chrysotile, required solely for the manufacture of the products described in paragraph 3 of this Schedule, except for use with chlorine, until 1st January 2001;
 - (d) chrysotile, or products containing chrysotile, required solely for the manufacture of the products described in paragraph 3 of this Schedule which are for use with chlorine until 1st January 2003;
 - (e) the products described in paragraph 4 of this Schedule until 1st January 2003;
 - (f) chrysotile, or products containing chrysotile, required solely for the manufacture of the products described in paragraph 4 of this Schedule until 1st January 2003;
 - (g) the products described in paragraphs 5 to 7 of this Schedule until 1st January 2004;
 - (h) chrysotile, or products containing chrysotile, required solely for the manufacture of the products described in paragraphs 5 to 7 of this Schedule, until 1st January 2004;
 - (i) the products described in paragraph 8 of this Schedule until 1st January 2005;
 - (j) chrysotile, or products containing chrysotile, required solely for the manufacture of the products described in paragraph 8 of this Schedule, until 1st January 2005;
 - (k) the products described in paragraphs 9 and 10 of this Schedule;
 - (l) chrysotile, or products containing chrysotile, required solely for the manufacture of the products described in paragraphs 9 and 10 of this Schedule;
 - (m) the products described in paragraph 11 of this Schedule.
2. Regulation 7(1) shall not apply to—
 - (a) the products described in paragraph 3 of this Schedule, except for use with chlorine, until 1st January 2001;
 - (b) the products described in paragraph 3 of this Schedule which are for use with chlorine until 1st January 2003;
 - (c) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraph 3 of this Schedule, except for use with chlorine, until 1st January 2001;
 - (d) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraph 3 of this Schedule which are for use with chlorine until 1st January 2003;
 - (e) the products described in paragraph 4 of this Schedule until 1st January 2003;
 - (f) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraph 4 of this Schedule until 1st January 2003;
 - (g) the products described in paragraphs 5 to 7 of this Schedule until 1st January 2004;
 - (h) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraphs 5 to 7 of this Schedule, until 1st January 2004;

- (i) the products described in paragraph 8 of this Schedule until 1st January 2005;
- (j) chrysotile, or products to which chrysotile has intentionally been added, required solely for the manufacture of the products described in paragraph 8 of this Schedule, until 1st January 2005;
- (k) the products described in paragraphs 9 and 10 of this Schedule;
- (l) chrysotile, or products to which chrysotile has intentionally been added required solely for the manufacture of the products described in paragraphs 9 and 10 of this Schedule.

3. Compressed asbestos fibre gaskets for use with saturated steam, superheated steam, or with substances which if classified in accordance with the classification provided for by regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994^(a) would be in the category of danger, corrosive, toxic, flammable or highly flammable.

4. Any sheet which when in a dry state has a density greater than 1900 kilograms per cubic metre and is used in temperatures at or above 500°C.

5. Any component of an aeroplane or helicopter which is necessary for its safe operation.

6. Any product consisting of a mixture of asbestos with a phenol formaldehyde resin or with a cresylic formaldehyde resin used in—

- (a) vanes for rotary vacuum pumps;
- (b) vanes for rotary compressors;
- (c) any bearing or its housing; or
- (d) split face seals of at least 150 millimetres in diameter used to prevent leakage of water from hydro-electric power generation turbines or from cooling water pumps in fossil fuel or nuclear-powered electricity generating stations.

7. Pre-formed joints for sealing the doors of steam boilers and made from cloth containing asbestos and proofed with rubber or another elastomeric polymer.

8. Personal protective clothing for protection against the handling of material at a temperature of 500°C or more.

9. Vehicle brake linings, and in this paragraph—

“vehicle” means any motor vehicle intended for use on the road, having at least four wheels and a maximum design speed exceeding 25 kilometres per hour, and its trailers, but does not include vehicles which run on rails, agricultural or forestry tractors, or mobile machinery;

“brake linings” means the friction material components of a brake lining assembly; and

“brake lining assembly” means a component of a friction brake which is pressed against a drum or disc, to produce the friction force.

10. Diaphragms for use in electrolytic cells in existing electrolysis plants for chlor-alkali manufacture.

11. Receptacles used for the storage of acetylene gas under pressure and in use before 24th November 1999.”

(a) S.I. 1994/3247, amended by S.I. 1996/1092, 1997/1460, 1998/3106 and 1999/197.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Asbestos (Prohibitions) Regulations 1992, S.I. 1992/3067 (“the 1992 Regulations”). These Regulations also implement Commission Directive 1999/77/EC of 26th July 1999 adapting to technical progress for the sixth time Annex 1 to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the restrictions on the marketing and use of certain dangerous substances and preparations (asbestos). The principal provisions are referred to in the following paragraphs.

2. In regulation 2(1) of the 1992 Regulations, a definition of the word “supply” is inserted thereby extending the meaning of that word to cover supply by way of loan, gift, or exchange for a consideration other than money. (Regulation 2(2).)

3. Regulation 3 of the 1992 Regulations is replaced by a new regulation 3 which extends the prohibition on the importation of asbestos to chrysotile. (Regulation 2(3).)

4. Regulation 7 of the 1992 Regulations is replaced by a new regulation 7 which amongst other things prohibits the supply and use of chrysotile asbestos and any product to which chrysotile asbestos has intentionally been added and which was not in use before 24th November 1999. (Regulation 2(6).)

5. Regulation 8 of the 1992 Regulations is amended to enable the Secretary of State for Defence to grant exemptions to specified persons in the interests of national security. (Regulation 2(7).)

6. The Schedule to the 1992 Regulations is replaced by a new Schedule which contains derogations from the provisions of the new regulations 3(2) and 7(1). (Regulation 2(8).)

7. A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Economic Advisers Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. Copies have been placed in the Library of each House of Parliament.

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