



Asbestos at work guide



Introduction

This document provides a practical summary of the Control of Asbestos Regulations. It explains your duty to manage the risk from asbestos in non-domestic premises contained in the regulations. These regulations cover work with asbestos, prohibitions on the importation, supply and use of asbestos and licensing of asbestos-removal activities.

The Control of Asbestos Regulations contains an explicit duty on the owners and occupiers of non-domestic premises, who have maintenance and repair responsibilities, to assess and manage the risks from the presence of asbestos.

This guide explains some of the duties of building owners, tenants and other parties who have legal responsibility for the premises. It also gives information on what is required from people who have a responsibility to co-operate with the main duty-holder.

The term duty-holder applies to the owner, tenant, landlord, managing agent or other party who maintains or owns the building. Explained are some of the typical methods used to help manage the risk posed by asbestos in premises. The main aim is to help protect contractors' employees, tenants and anyone else who may come across asbestos in the course of their day-to-day activities. However, you must seek separate independent specialist legal and/or technical advice, before taking any steps.

The term duty-holder means anyone who is legally responsible under the Regulations to comply with the statutory requirements contained in the Control of Asbestos Regulations.



Frequently asked questions

What is asbestos?

Asbestos is a naturally occurring mineral with exceptional heat insulation and fire resistant properties. Products containing asbestos have been widely used in buildings for fireproofing, thermal insulation, electrical insulation, sound insulation, decorative plasters, roofing products, flooring products, heat resistant materials, gaskets and friction products. In 1985 the use of any construction materials containing blue or brown asbestos was banned. Then in 1999 the use of white asbestos in any building products was also banned.

Why is asbestos dangerous?

When asbestos or ACMs are moved or disturbed it releases microscopic fibres into the air. These have the potential to be inhaled deep into the lungs which can lead to serious health problems. The types of work that release fibres include drilling holes with power tools and sawing or sanding material. Simply working near to material containing asbestos may also result in the release of fibres, particularly if the asbestos is in poor condition. ACMs are still present in many buildings, and people can cut, sand or drill into them or near them without being aware of what they are.

The Control of Asbestos Regulations specifically requires duty-holders to take all 'reasonable steps' to find any materials in the premises likely to contain asbestos and to check the current condition of them.

Broadly speaking, this means that duty-holders should carry out investigative research and a physical survey to determine if any asbestos materials are present in the building.

The primary duty for complying with Control of Asbestos Regulations rests with the person who is in control of maintaining the building fabric and controlling and/or organising maintenance activities in the non-domestic premises. This could be the occupier, landlord, sub-lessor or managing agent.

The three main types of asbestos material used in Britain were:

- Blue – known as 'Crocidolite' asbestos
- Brown – known as 'Amosite' asbestos
- White – known as 'Chrysotile' asbestos

Where there is no formal tenancy agreement, lease arrangement or contract; or where the premises are unoccupied, then the duty to comply rests with the person in control of the premises.

The extent of this duty is determined by the degree of responsibility over the upkeep of the building and the maintenance activities that are carried out. Theoretically, this can involve two or three individuals and responsibility to comply with Control of Asbestos Regulations would then be split between all parties. In this situation it is extremely important for the parties involved to co-operate and co-ordinate their activities.

It is common for the owner to rent or lease out workplace premises under rental agreements where the tenants are responsible for some or all of the alterations, as well as for maintenance and repairs in the premises. In this case, each tenant will have to carry out an assessment and implement the necessary arrangements for the areas under their direct control.

Where the owner is responsible for maintaining, repairing and controlling access to the building by maintenance employees and contractors, the owner is responsible for completion of the work.



The Control of Asbestos Regulations

The term duty-holder means anyone who is legally responsible under the Regulations to comply with the statutory requirements contained in the Control of Asbestos Regulations. Therefore, the duty-holder will be required to perform certain activities such as:

- Take reasonable steps to determine the location of materials likely to contain asbestos
- Presume materials contain asbestos, unless there are good reasons not to do so
- Produce and maintain a written record of the location of the ACMs and presumed ACMs
- Assess and monitor the condition of ACMs and presumed ACMs
- Assess the risk of exposure from ACMs and presumed ACMs and prepare a written plan of the actions and measures necessary to manage the risk (i.e. the 'management plan')
- Take steps to ensure that these actions are carried out.

The detail of any contracts/tenancy agreements must always be referred to when trying to determine who is responsible for the different aspects of the requirements. Some good examples of tenancy arrangements and how responsibilities must be shared are set out in The Management of Asbestos in Non-Domestic Premises Approved Code of Practice published by HSE books.

The Asbestos Survey Guide covers the criteria for surveying of asbestos in commercial and domestic properties.

Key areas to be aware of

- Competence is the responsibility of the duty-holder to ensure that they appoint a competent organisation or person to undertake the asbestos survey. The duty-holder will need to ask for references from previous survey portfolios undertaken and ensure that the organisation or surveyor appointed, is accredited or certified by a third party.
- Organisations can demonstrate that they are technically competent to undertake surveys for ACMs through accreditation to ISO/IEC 17020. The United Kingdom Accreditation Service (UKAS) is the sole national accreditation body in the United Kingdom.

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- Accreditation provides assurance that an independent and authoritative body has assessed the technical competence of an organisation. This includes its underpinning management system, to ensure that it can provide a valid service for the services specified on its schedule of accreditation. Individual surveyors can also demonstrate that they are technically competent to undertake specified surveys through holding "personnel" certification from a Certification Body accredited by UKAS for this activity under ISO/IEC 17024. Personnel certification provides assurance that an individual has achieved a defined level of competence to carry out specific activities.



Types of asbestos survey

The survey guide outlines two classifications of asbestos survey.

Who should I use to carry out the survey?

The Health and Safety Executive (HSE) strongly recommends the use of accredited or certificated surveyors for asbestos surveys. The duty-holder should not appoint or instruct an independent surveyor to carry out a survey unless the surveyor is competent.

The management survey

This is the standard survey that should be carried out for the management of asbestos in premises. The purpose of the survey is to locate, as far as reasonably practicable, the presence and extent of any suspect ACMs in the building and assess their condition.

The survey will primarily involve sampling and analysis to confirm the presence or absence of ACMs. Sampling is the most common approach used for surveys. A management survey can be completed using a combination of sampling ACMs and presuming ACMs or indeed, just presuming. Any materials presumed to contain asbestos must also have their condition assessed i.e. material assessment.

Refurbishment and demolition surveys

This type of survey is used to locate and describe, as far as reasonably practicable, all ACMs in the area where the refurbishment work will take place or in the whole building if demolition is planned. The survey will involve destructive inspection to gain access to all locations, including those that may be difficult to reach. Refurbishment work may vary from small scale to large projects. Small scale work may occur in different parts of a building at different times over several years. A full sampling programme is undertaken in these areas to identify possible ACMs and to obtain estimates of the volume and surface area of ACMs present. The survey is primarily designed to identify ACMs so that they can be removed in preparation for the refurbishment or demolition.

The value and usefulness of the survey can be seriously undermined where either the client or the surveyor imposes restrictions on the survey scope or on the techniques/method used by the surveyor. Information on the location of all ACMs as far as reasonably practicable is crucial to the risk assessment and development of the management plan. Any restrictions placed on the survey scope will reduce the

extent to which ACMs are located and identified. Delays are incurred and consequently make managing asbestos more complex, expensive and potentially less effective.

Should I include survey restrictions or caveats?

Survey restrictions and caveats can seriously undermine the management of asbestos in buildings. They should only be included where absolutely necessary and should be fully justified. Most can be avoided by proper planning and discussion. They must be agreed between the duty-holder and the surveyor and documented in the survey report.

Appointed person

To help comply with the legal requirements and to ensure that ACMs in premises are properly managed, duty-holders should identify a person (and in some cases a deputy) within their organisation who will be responsible for that management. An appointed person will be essential where the duty-holder has a large or complex building portfolio. The appointed person will need the resources, skills, training and authority to ensure that the ACMs are managed effectively. Part of their responsibilities will include managing the survey, including contractual and reporting arrangements, quality and subsequent use of the data.

Documenting the survey

You should maintain a written record of the location and condition of asbestos and presumed ACMs and keep the record up to date. This is normally easier to do if you mark the location of asbestos on any drawings of the building that may be available. If this is not possible, then you need to keep a register detailing the area, condition, location and type of asbestos, together with any essential information that may be relevant.

The register needs to include certain information such as:

- Where the material is located
- What condition the material is in, i.e. damaged, friable, good condition etc
- What form the material is in, i.e. cement tiles or panels, insulation board, sprayed insulation etc
- What the material looks like, i.e. how it is recognised, whether it is painted or encapsulated, what colour it is
- The plan or register must also identify areas that have not been inspected but may contain asbestos.



Assessing the risk

If asbestos material is found the duty-holder must have its condition assessed. To do this properly and without risk, it is best to employ a competent person or organisation. The Health and Safety Executive (HSE) maintain a list of accredited laboratories and surveyors, a copy of which can be down loaded from the HSE website at www.hse.gov.uk/campaigns/asbestos/index.htm

The duty-holder should always presume that materials used in building construction contain asbestos unless there is strong evidence to suggest that they do not. An accurate presumption can be made based on the age of the building. For example, buildings constructed prior to 2005 will almost certainly contain asbestos or ACMs of some kind.

The duty-holder must also assess the risk of anyone being exposed to asbestos material. This needs to take account of tenants, contractors, cleaners, maintenance personnel and others i.e. the emergency services.

The Control of Asbestos Regulations requires a duty-holder to prepare and implement a plan to manage the asbestos risk.

The plan must ensure that certain measures are taken, including the following:

- Material known or presumed to contain asbestos must be kept in a good state of repair
- Material that contains or is presumed to contain asbestos is removed if:
 - » it is assessed as being in a poor condition
 - » it is likely to be damaged if left in its current location
 - » it is likely to expose someone to a potential risk if it is left in its current location

An approved and licensed HSE contractor must carry out the removal of asbestos materials. Information concerning the location of asbestos or ACMs must be available to all parties who require this information, including emergency services, tenants and employees. Textured coatings such as earlier types of artex have now been deregulated under the regulations. This means that you do not need to employ a licensed contractor to remove textured coatings that may contain asbestos.

However, you must still take a reasonable amount of samples to determine the concentration of possible asbestos fibres as these were very often hand mixed. If the samples show that concentrations of asbestos are likely to be high, there is a good chance that this will increase the risk of exposure for persons undertaking the work. Therefore potentially breaching the lower exposure limits set in the revised regulations. Further specialist advice should be sought from the HSE or other specialist in this case.

Asbestos materials can be identified by a label, but the labels must be checked from time to time as they may become obscured or fall off. Labelling should conform to the Health and Safety (Safety Signs and Signals) Regulations.

Periodic checks must be carried out to ensure that all the arrangements the duty-holder has implemented to manage asbestos or asbestos-containing materials are being maintained and are effective. These checks need to be determined by the experience of the duty-holder in relation to the condition of the materials.

Contractors

Those most at risk from asbestos-related diseases are building maintenance employees and contractors who may be brought in to supplement or assist with building repairs.

Employers of building maintenance and repair workers are required to carry out a risk assessment before undertaking any work which exposes, or may expose employees to asbestos. They must then implement the most appropriate controls required by the Control of Asbestos Regulations to prevent or control the exposure to employees.

In the majority of cases, the contractors and their employees have little or no information about the premises where they will undertake work and will not be aware if any ACMs are present.

Therefore it is difficult for contractors to assess the risks accurately and take the most appropriate precautions. To address this difficulty, the duty to manage the risk from asbestos in premises has been added to the Control of Asbestos Regulations.



In addition to their duty to manage asbestos, all employers must:

- Undertake risk assessments before beginning work which exposes, or may expose, employees or contractors to asbestos or ACMs
- Produce a plan of work detailing how the work is to be carried out
- Either prevent exposure to asbestos or reduce it to as low a level as is reasonably practicable
- Make any relevant information available so that employees and contractors also know of the presence of asbestos and ACMs. This should be done as soon as possible so that they can carry out their own accurate risk assessments on the work to be carried out
- Comply with a range of other legislative requirements, for example on the use and maintenance of control measures and personal protective clothing, and the duty to prevent the spread of asbestos.

Domestic premises

In the domestic sector, local authorities and housing associations are responsible for very large numbers of properties. These will need a range of maintenance and repair work as well as general improvement and upgrading or occasionally demolition. Works can include rewiring, structural repairs and alterations, replacement windows, central heating, insulation, renewal of bathroom and kitchen fittings or complete renovations. The work may be necessary on individual or small numbers of premises (e.g. emergency work due to fire/water/storm damage) or on large numbers where there are major improvement or upgrading schemes (e.g. the Decent Homes Improvement programme).

Domestic properties present particular challenges for surveying asbestos. The main issues are the scale i.e. the large number of properties and consequently what is reasonable and practical. Asbestos was extensively used in domestic properties between 1930 and 1980. However the presence of ACMs can now be quite variable and unpredictable even within the same type of property group.

The content varies for several reasons including:

- Inconsistent/variable initial use
- Random use of waste pieces and off cuts by builders
- Previous unrecorded removal of asbestos
- Modifications of properties by tenants (present and past)
- Housing associations removing and adding ACMs.

Domestic dwellings often fall into particular groups in terms of style, design and age, e.g. flats within blocks would generally be similar in construction.

These factors can be used to develop the survey strategy. The following paragraphs outline the general strategy to use for surveying domestic properties.

There are three components:

- Establish the asbestos status of properties
- Carry out management surveys
- Carry out refurbishment surveys as necessary.

Establish asbestos status of properties

Carry out a desk-top study to establish the probable asbestos status of groups of properties. In this exercise, properties can be placed into similar construction groups based on various parameters including construction date (e.g. estates phases), house design and location. These groups of properties can be separated into the following categories: asbestos free, 'contain' ACMs and 'possibly contain' ACMs.

The main criteria involved here for concluding groups are asbestos free would be any property constructed in 2000 or later. It may also be possible to conclude that groups are asbestos free based on other information, such as original construction information, building material specification, previous asbestos surveys or removals or other records. This evidence would need to be strong and records complete. These sources of information would also be used to conclude the definite presence of asbestos in particular property groups. Other properties constructed pre-2000 should be classed as possibly containing ACMs unless there is evidence to show otherwise (e.g. previous surveys etc).



AXA Insurance

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