

Briefing Note: Control of Asbestos Regulations 2006 'The Duty to Manage'

An Introduction to the Guide

The Control of Asbestos Regulations 2006 came into force on the 13th November 2006 and brought together three previous sets of regulations covering the prohibition of asbestos, control of asbestos at work and asbestos licensing. This guide should not be relied upon as legal advice and you should contact us for advice on your specific circumstances.

This note provides a short summary in relation to the control of asbestos at work and the 'duty to manage'.

Regulation 4 of the Control of Asbestos Regulations 2006 obliges the 'dutyholder' to manage the risk from asbestos in non-domestic premises, so to ensure that workers are no longer knowingly exposed to any potential or real risk.

In many cases a dutyholder is a person or organisation that has clear responsibility for maintenance or repair of non-domestic premises by virtue of a contract or tenancy. Therefore, the duty to manage may be shared between several parties or one owner alone.

For example, an owner may be responsible for the common parts of a building whilst the leaseholders take care of the parts that they occupy. In some circumstances the duty may even be passed to a third party, such as a managing agent. There is also a requirement to co-operate as far as necessary to allow the dutyholder to comply with the regulations.

Dutyholders must:-

- Take reasonable steps to identify asbestos within their premises, the amount present and its condition. This will probably involve carrying out an asbestos audit. We can help arrange this if you wish.
- Presume materials contain asbestos unless there is evidence that they do not.
- Complete a written record of the location of the asbestos or presumed asbestos
- Carry out a risk assessment
- Prepare a plan setting out how any risk will be managed
- Implement the plan
- Pass on information about asbestos containing materials to those who need it
- Monitor and review all the above arrangements periodically

Non-compliance with Regulation 4 is a criminal offence, punishable with a fine of up to £20,000 and/or imprisonment for up to 12 months.

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Summary:

This note provides a short summary about the 'duty to manage' asbestos that came into effect on 13 November 2006.

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