

Briefing Note: Control of Asbestos Regulations 2012 'The Duty to Manage'

Introduction

The Control of Asbestos Regulations 2012 came into force on 6 April 2012 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'.

The Control of Asbestos Regulations 2012 replace the earlier Control of Asbestos Regulations 2006 with some small modifications. The majority of these modifications relate to records and notification of non-licensed work; however, all other requirements remain unchanged.

Regulation 4 of the Control of Asbestos Regulations 2012 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

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Summary:

This note provides a short summary about the 'duty to manage' asbestos that came into effect on 6 April 2012.

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Non-compliance with Regulation 4 is a criminal offence, punishable with a fine of an unlimited amount and/or imprisonment for up to two years.

If you would like to know more about this topic or our legal services, please contact Hannah Bambury:
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