



CONTROL OF ASBESTOS (APPLICATION) ORDER 2022

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Statutory Document No. 2022/0034

*Health and Safety at Work, Etc., Act 1977*

CONTROL OF ASBESTOS (APPLICATION) ORDER 2022

*Approved by Tynwald:**Coming into Operation:**1 August 2022*

The Department of Environment, Food and Agriculture makes the following Order, following consultation with such organisations as it considers represent interests which will be affected by the Order¹, under section 1(1)(b) and (d) of the Health and Safety at Work, Etc., Act 1977.

PART 1 – INTRODUCTORY

1 Title

This Order is the Control of Asbestos (Application) Order 2022.

2 Commencement

If approved by Tynwald², this Order comes into operation on 1 August 2022.

3 Application

- (1) The Control of Asbestos Regulations 2012³ of Parliament (“the Regulations”) apply as part of the law of the Island, subject to the modifications in Part 2.
- (2) This Order applies to all places within the Island.

¹ As required by section 1(4) of the Health and Safety at Work Etc. Act 1977.

² Tynwald approval is required by section 1(5) of the Health and Safety at Work Etc. Act 1977.

³ SI 2012/632, as amended by Scottish SI 2013/119, SI 2014/469, SI 2015/21, SI 2015/1682, SI 2018/390 and SI 2019/696.

PART 2 – MODIFICATION OF THE CONTROL OF ASBESTOS REGULATIONS 2012

4 General modifications

Throughout the Regulations –

- (a) in each place it occurs, with the exception of regulation 32, for “Executive” substitute **“Department”**;
- (b) in each place it occurs, for “appropriate authority” substitute **“Department”**; and
- (c) in each place it occurs, for “appropriate enforcing authority” substitute **“Department”**.

5 Preamble omitted

Omit the preamble.

PART 1 MODIFIED

6 Regulation 1 modified

For regulation 1 (citation and commencement) substitute –

“These Regulations may be cited as the Control of Asbestos Regulations 2012 and come into operation –

- (a) for the purposes of regulation 4, on 1 February 2023; and
- (b) for all other purposes, on 1 August 2022. **”**.

7 Regulation 2 modified

In regulation 2 (interpretation) –

- (a) after the definition of “control measure” insert a new definition –
 - “Department”** means the Department of Environment, Food and Agriculture; **”**;
- (b) in the definition of “employment medical adviser”, for “section 56 of the 1974 Act” substitute **“the Health and Safety at Work etc. Act 1974 (of Parliament) as it is in operation from time to time in the United Kingdom”**;
- (c) for the definition of “enforcing authority” substitute –
 - “GB regulations”** means the Control of Asbestos Regulations 2012 as they are in operation in Great Britain from time to time; **”**;
- (d) after the definition of “medical examination” insert a new definition –

“the Northern Ireland Regulations” means the Control of Asbestos Regulations (Northern Ireland) 2012⁴ as they are in operation in Northern Ireland from time to time; and

(e) omit the definition of “relevant nuclear premises”.

8 Regulation 3 modified

For regulation 3(4)(a) (application of these Regulations) substitute —

- (a) to the fire brigade within the meaning of section 1(a) of the Fire Services Act 1984 in respect of premises attended by its employees for the purposes of fighting a fire or in an emergency;
- (aa) to the Isle of Man Airport Fire and Rescue Service in respect of premises attended for the purposes of fighting a fire or in an emergency; or

PART 2 MODIFIED

9 Regulation 11 modified

In regulation 11 (prevention or reduction of exposure to asbestos) —

- (a) in paragraph (4) —
 - (i) after “must be suitable” insert “and sufficient”;
 - (ii) after “for its purpose and” insert “for the individual using it.”; and
 - (iii) omit sub-paragraphs (a) and (b); and
- (b) omit paragraph (6).

10 Regulation 15 modified

In regulation 15(2) (arrangements to deal with accidents, incidents and emergencies) —

- (a) for “1999” substitute “2003”;
- (b) for the footnoted text substitute “SD 877/03.”.

11 Regulation 19 modified

Omit regulation 19(6) (air monitoring).

12 Regulation 21 modified

For regulation 21(2) (standards for analysis) substitute —

- (2) Every employer who requests a person to analyse a sample of any material taken to determine whether it contains asbestos must ensure that that person —

⁴ SR 2012/179.

- (a) is accredited by an appropriate body as competent to perform work in compliance with ISO 17025; or
- (b) has been approved to perform the analysis by the Department. **22**.

13 Regulation 22 modified

In regulation 22 (health records and medical surveillance) —

- (a) in paragraph (3) —
 - (i) in sub-paragraph (a), for “30 April 2015” substitute **31** October 2023 **22**; and
 - (ii) in sub-paragraph (b), for “1 May 2015” substitute **31** November 2023 **22**;
- (b) in paragraph (5), after “working hours” insert **33**, where practicable, **22**; and
- (c) omit paragraph (8A).

14 Regulation 24 modified

In regulation 24(3) (storage, distribution and labelling of raw asbestos and asbestos waste) —

- (a) omit sub-paragraph (a); and
- (b) in sub-paragraph (b) omit “in any other case”.

PART 3 MODIFIED

15 New regulation 26A

After regulation 26 (prohibitions of exposure to asbestos), insert a new regulation 26A —

33 26A Prohibition of the supply of asbestos

- (1) A person must not supply, other than solely for the purpose of disposal, asbestos or any product to which asbestos has intentionally been added.
- (2) Despite paragraph (1), the Department may issue a certificate in writing exempting a person or class of persons from this prohibition (“**asbestos exemption certificate**”) in relation to —
 - (a) an activity or a class of activities;
 - (b) an asbestos-containing article or a class of such articles.
- (3) An asbestos exemption certificate —
 - (a) must include conditions ensuring a high level of protection of human health;
 - (b) may be subject to a limit of time; and

(c) may be varied or revoked by a notice in writing.

(4) In this regulation “asbestos-containing article” means an article in its entirety containing any of the asbestos fibres listed at point 6 of Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC⁵. **22**.

16 Regulation 28 modified

Omit regulation 28(3) (additional provisions in the case of exceptions and exemptions).

PART 4 MODIFIED

17 Regulation 30 modified

For regulation 30 (exemptions relating to the Ministry of Defence) substitute —

30 Exemptions relating to the Ministry of Defence

Any exemption by the Secretary of State for Defence under regulation 30 of the GB regulations from all or any of the requirements or prohibitions imposed by those Regulations applies in the Island insofar as it affects work or practices being carried out —

(a) in the Island; or

(b) by employers established in the Island,

but only to the extent specified in the relevant exemption. **22**.

18 Regulation 31 modified

For regulation 31 (extension outside Great Britain) substitute —

31 Work undertaken in the territorial sea of the Island

These Regulations apply to any work undertaken on, in, under or above the territorial sea of the Island.

⁵ OJ L 396 30.12.2006, p. 1.

19 Regulation 32 modified

- (1) Regulation 32 (existing licences and exemption certificates) is modified as follows.
- (2) In the heading, omit “and exemption certificates”.
- (3) In paragraph (1) —
 - (a) for “Executive” substitute **33**Health and Safety Executive of Northern Ireland **32**; and
 - (b) for “Control of Asbestos Regulations 2006” substitute **33**Northern Ireland Regulations to an entity with a registered address in the Island **32**.
- (4) Omit paragraphs (2) and (3).

20 Regulation 33 modified

- (1) Regulation 33 (revocations and savings) is modified as follows.
- (2) In the title, omit “Revocations and”.
- (3) Omit paragraphs (1) and (2).
- (4) In paragraph (3) —
 - (a) for the words from the beginning to “that revocation,” substitute **33**Any record or register required to be kept under the Northern Ireland Regulations by an existing licence holder to which regulation 32 applies must **32**; and
 - (b) for “Regulations so revoked” substitute **33**Northern Ireland Regulations **32**.
- (5) Omit paragraph (4).

21 Regulation 34 modified

In regulation 34 (defence), omit the words from “Subject to regulation” to “Regulations 1999,”.

22 Regulation 35 modified

For regulation 35 (review) substitute —

33 35 Power to issue directions

The Department may issue to any person carrying out or proposing to carry out any work to which these regulations apply appropriate directions for the protection of any person employed or engaged in such work, and it is the duty of the person to whom such directions are issued to comply with those directions. **32**.

23 New regulation 36

After regulation 35 (power to issue directions), insert a new regulation 36 —

36 Power to levy fees

- (1) The Department may levy a fee for the submission of applications for a licence under these regulations.
- (2) The fee is that prescribed, from time to time, by regulations made under the general fee power provided by section 81 of the Interpretation Act 2015. 22.

SCHEDULES 2 AND 3 MODIFIED

24 Schedule 2 modified

In Schedule 2 (appendix 7 to the annex XVII of the REACH Regulation — provisions on the labelling of articles containing asbestos), in paragraph 1(1)(a) —

- (a) in subparagraph (i), after “No 1907/2006” insert as a footnote 23 As it forms part of Manx law by virtue of paragraph 67(5) of the European Union and Trade Act 2019 (Retained Direct EU Legislation) (DEFA and OFT) Regulations 2019. 24; and
- (b) omit subparagraph (ii).

25 Schedule 3 omitted

Omit Schedule 3 (amendments).

MADE

2022

CLARE BARBER

Minister for Environment, Food and Agriculture

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies the United Kingdom’s Control of Asbestos Regulations 2012 (as amended) (“the Regulations”) to the Island subject to the modifications set out in the Order.

The application of the Regulations implements provisions of –

- (a) Council Directive 2009/148/EC of the European Parliament and of the Council on the protection of workers from the risks related to exposure to asbestos at work⁶; and
- (b) Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to exposure to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁷ insofar as it relates to risks to health from exposure to asbestos.

The Annex to this Order sets out the Regulations as they are applied to the Island, including all modifications.

Offences

Contravention of the applied Regulations is an offence under section 33 of the Health and Safety at Work etc. Act 1974, as it is applied to the Island.

⁶ OJ No L330, 16.12.2009, p28.

⁷ OJ No L131, 5.5.93, p11.