



STATUTORY INSTRUMENTS.

S.I. No. 589 of 2010

SAFETY, HEALTH AND WELFARE AT WORK (EXPOSURE TO
ASBESTOS) (AMENDMENT) REGULATIONS 2010

(Prn. A10/1821)

SAFETY, HEALTH AND WELFARE AT WORK (EXPOSURE TO ASBESTOS) (AMENDMENT) REGULATIONS 2010

I, DARA CALLEARY, Minister of State at the Department of Enterprise, Trade and Innovation, in exercise of powers conferred on me by section 58 of the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005) (as adapted by the Enterprise, Trade and Employment (Alteration of Name of Department and Title of Minister) Order 2010 (S.I. No. 185 of 2010)) and the Enterprise, Trade and Innovation (Delegation of Ministerial Functions) (No. 2) Order 2010 (S.I. No. 333 of 2010) and for the purpose of giving effect to Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009¹ on the protection of workers from the risks related to exposure to asbestos at work, hereby make the following Regulations:

1. These Regulations may be cited as the Safety, Health and Welfare at Work (Exposure to Asbestos) (Amendment) Regulations 2010.

2. The Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006 (S.I. No. 386 of 2006) and these Regulations may be cited together as the Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006 and 2010.

3. The Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006 (S.I. No. 386 of 2006) are amended-

(a) in Regulation 2(1), by substituting for the definition of “Directive” the following:

“‘Directive’ means Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009⁵,”;

and by the addition of the following footnote thereto:

“⁵O.J. No. L 330, 16.12.2009, p. 28”

(b) in Regulation 10(2)(c), by deleting “and Schedule 2”;

(c) in Regulation 11, by substituting for paragraph (1) the following:

“(1) Subject to Regulation 5(b), an employer shall not carry on an activity which would expose or would be liable to expose an employee to dust arising from asbestos or materials containing asbestos unless he or she has prepared a written notification comprising details of matters specified in Schedule 3 and has submitted it to the Authority, together

¹O.J. No. L 330, 16.12.2009, p. 28

with a copy of the plan of work referred to in Regulation 15, so that it is received by the Authority not less than 14 days before commencing the activity, or before such shorter period as the Authority, at its discretion, may agree in writing.”;

(d) by substituting for Regulation 15 the following:

“ *Plan of work* ”

15. (1) Where any demolition or other work involves removing, repairing or maintenance of asbestos and/or asbestos-containing products from or at any building, other structure, plant, installation or ship, whether or not such removal involves total demolition of the structure, such work shall not commence until a suitable plan of work is drawn up in writing outlining how that work is to be carried out.

(2) Subject to the other provisions of these Regulations, the plan of work referred to in paragraph (1) shall specify all preventative and other measures necessary to ensure the safety and health of employees at the place where that work is to be carried out.

(3) The employer shall keep a copy of the plan of work referred to in paragraph (1) at those premises at which the work to which the plan relates is being carried out for such time as that work continues and shall make a copy of the plan of work available, on request, to an inspector or, as the case may be, to an authorised person within the meaning of—

(a) the Air Pollution Act 1987 (No. 6 of 1987), or

(b) the Waste Management Acts 1996 to 2005.

(4) The plan of work referred to in paragraph (1) shall specify—

(a) that asbestos or asbestos-containing products, or both, are to be removed so far as is reasonably practicable before demolition techniques are applied or major refurbishment of a premises commences, except where this would cause a greater risk to employees than if the asbestos or asbestos-containing products, or both, had been left in place;

(b) that personal protective equipment referred to in Regulation 14(1)(a) shall be provided to the employees concerned;

(c) information to include—

(i) the nature and probable duration of the work,

(ii) the location of the place where the work is carried out,

(iii) the methods applied where the work involves the handling of asbestos or of materials containing asbestos, and

(iv) the characteristics of the equipment used for—

- (I) protection and decontamination of the employees carrying out the work, and
- (II) protection of other persons present on or near the worksite.

(5) The plan of work referred to in paragraph (1) shall include information on all the necessary preventive measures to be taken to ensure that the demolition of buildings, structures and installations containing asbestos or asbestos-containing materials, or both, and the removal therefrom of asbestos or materials containing asbestos fibres or dust, do not cause significant asbestos environmental pollution.

(6) Every plan of work made in accordance with this Regulation shall be complied with.

(7) Where notification is required for the purposes of Regulation 11, a copy of the plan of work in respect of the notified work shall be provided to the Authority in accordance with the requirements of Regulation 11(1).

(8) Where work activities are being carried out in which employees are or are likely to be exposed to dust arising from asbestos and/or materials containing asbestos the employer shall ensure that the premises, or those parts of the premises where the work is carried out and the plant used in connection with that work are kept in a clean state.

(9) Notwithstanding the provisions of paragraph (8) the employer shall ensure that when such work has been completed, the premises, or those parts of the premises where the work was carried out, the plant used in connection with that work and designated waste and personnel transit routes are thoroughly cleaned.

(10) When asbestos demolition or removal work has been completed the employer who has carried out such work shall obtain a written verification regarding the absence of asbestos exposure risks in the place of work, otherwise known as 'site clearance for reoccupation'.

(11) For the purposes of paragraph (10) an employer shall have a competent person assess whether the premises or part of the premises where the work with asbestos has been carried out has been thoroughly cleaned upon completion of that work and is suitable for reoccupation.

(12) For the purposes of this Regulation an employer shall ensure—

- (a) that site clearance includes both visual observance and air monitoring, as appropriate and necessary,

- (b) subject to subparagraph (a), that site clearance is performed by a competent independent analyst, where both visual observance and air monitoring is required,
- (c) where visual observance only is appropriate, that site clearance is performed by a competent person,
- (d) receipt of a site clearance certificate in writing before reoccupation or continuation of other works at the site or premises, and
- (e) receipt of a clearance certificate for the decontamination unit, where use is determined necessary, prior to the removal of the facility from the site or premises.

(13) A clearance certificate shall be made available, on request, to an inspector.”;

(e) in Regulation 17(2), by substituting “Training and information” for “Training”;

(f) in Regulation 25,

(i) by substituting for paragraph (7) the following:

“(7) Where an employer ceases, or is about to cease, business and has a subsisting occupational health register to which paragraph (6) relates, the appropriate person shall—

- (a) inform the Authority of that fact,
- (b) deposit the occupational health register with the Authority or such other person as the Authority directs, and
- (c) ensure that individual medical records referred to in Regulation 21(1) are made available by the employer’s responsible medical practitioner to the Authority or such person as the Authority directs.”; and

(ii) by inserting after paragraph (8) the following paragraph:

“(8A) Where the individual medical records are made available to the Authority in accordance with paragraph (7)(c), a review of the records shall be carried out in such form as the Authority or a person designated under Section 63 of the Act considers appropriate in the circumstances.”; and

(g) by substituting for Regulation 26 the following:

“26. (1) The application of asbestos by means of the spraying process and working procedures that involve using low-density (less than 1 g/cm³) insulating or soundproofing materials which contain asbestos is prohibited.

(2) Without prejudice to the application of other Community provisions on the marketing and use of asbestos, activities which result in exposure of employees to asbestos fibres during the extraction of asbestos or the manufacture and processing of asbestos products or the manufacture and processing of products containing intentionally added asbestos shall be prohibited, with the exception of the treatment and disposal of products resulting from demolition and asbestos removal.”

GIVEN under my hand,
8 December 2010.

DARA CALLEARY,
Minister of State at the Department of Enterprise, Trade
and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations give effect to Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work.

These Regulations amend the Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006 (S.I. No. 386 of 2006).

These Regulations may be cited as the Safety, Health and Welfare at Work (Exposure to Asbestos) (Amendment) Regulations 2010.

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