

CONTROL OF ASBESTOS AT WORK REGULATIONS 2002 (Revised under the Control of Asbestos Regulations 2012)

Regulation 4: The duty to manage asbestos in non-domestic premises

Regulation 4 of the Control of Asbestos at Work Regulations 2002 (CAWR) came into force on 21 May 2004 and was revised under the Control of Asbestos Regulations 2012 (applicable as from 6 April 2012). The Regulation contains an explicit legal 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. Chapels, as non-domestic premises, are therefore included under this Regulation. Any individual with the responsibility for the maintenance or repair of chapels or for access to such places is 'the duty holder'; their obligations are covered more fully later in this document.

Past exposure to asbestos kills several thousand people each year in the UK and mortality rates are expected to rise during the next ten years. There is usually a long delay, varying from 15 to 60 years, between first exposure to the material and onset of cancers to the lungs and chest lining. The Regulations are intended to protect building users and all who maintain and repair buildings.

The modern asbestos mining industry commenced around 1870 and the material was used in buildings pre-1900. All asbestos is dangerous. Use of the most hazardous types of asbestos in building materials was banned in 1985 but a complete ban on all asbestos was only effected in 1999.

To give just some examples of asbestos-containing-materials (ACM's), asbestos can be found in insulating boards (used for fire barriers, thermal insulation, partitioning, ducts, wall and ceiling linings), sprayed asbestos insulation, old loose insulation on ceilings, lagging and jointing to pipes and boilers, fire doors, insulation of electrical equipment, textured decorations such as Artex, plastic flooring, suspended ceiling tiles, corrugated asbestos-cement sheet walls and roofs, asbestos-cement gutters/down pipes and soffits, bitumen roofing material, roof slate substitutes, toilet seats, floor tiles and cisterns.

Many of our chapels were built before 1870 and may only have asbestos in later alterations. Some have been built after 2000 and are therefore likely to contain little or no asbestos; however, under the Regulations the inside and outside of every non-domestic building must be assessed to find out if there is any asbestos present and a record made of the inspection.

A guidance, '*The Duty to Manage Asbestos in Buildings*' has been produced by the Health and Safety Executive (HSE) and is available free to print from the HSE website at: www.hse.gov.uk/asbestos/duty/print.htm The guidance states that a suitably trained person should be employed to do a survey of the premises to identify ACM's, particularly if there is maintenance or refurbishment planned, including installation of wire, pipe-work or ducting.

This is called a Management Survey and its purpose is to identify, as far as reasonably practicable, the presence, location, and extent of any ACM's which could be damaged or disturbed during normal occupancy, including maintenance, and to assess their condition. The survey will usually involve sampling and analysis to confirm the presence or absence of ACM's.

If the material is present, or if it has to be presumed that it may be present, the related risk has to be determined and a management plan has to be put in place. The information has to be given to anyone who is likely to disturb the material.

The person (or organisation) undertaking the survey should be accredited for this type of work, have evidence of training and experience, and requisite liability insurance.

HSE provides further information on asbestos surveys in 'Asbestos: The survey guide' (available to purchase or download free at www.hse.gov.uk/pubns/books/hsg264.htm).

Organisations that sample and analyse asbestos need to be accredited by the UK Accreditation Service (UKAS). Visit www.ukas.com for advice on suitable companies.

A Refurbishment and Demolition Survey is required before any work of that nature can commence. This survey (a specific requirement in CAR 2012, regulation 7) is used to locate and describe all ACM's in the area where the refurbishments will take place or in the whole building if it is to be fully or partly demolished. The survey will be intrusive and may involve destructive inspection to gain access to all necessary areas.

The same type of survey may be required in other circumstances, such as when particularly invasive maintenance and repair work is to be carried out, or when structural or layout changes are planned such as the removal of partitions, walls, units etc.

In addition, it is necessary to distinguish between Non-licensed work, Notifiable Non-licensed work and Licensed work. The below chart lists the key distinctions. A document explaining this in full, including the duty holder's responsibilities in each case, is available to download here: [The Control of Asbestos Regulations 2012 \("CAR 2012" summary changes\)](#).

Non- licensed work	Notifiable Non- licensed work	Licensed work
Compliance with risk assessment	Notification before work starts	Licensing
Control of exposure	Compliance with risk assessment	Notification 14 days in advance
Training	Control of exposure	Designation of asbestos areas
	Training	Compliance with risk assessment
	Emergency arrangements	Control of exposure
	Medical examination every 3 years	Training
	Health records	Emergency arrangements
		Medical examination every 2 years
		Health records
Lower Risk	→	Higher risk

To summarise, the duty to manage asbestos requires the duty holder, in making an assessment, to:

- find out if there is asbestos in the premises (or assess if ACM's are liable to be present and make a presumption that materials contain asbestos, unless there is strong evidence that they do not), its location and what condition it is in;
- make and keep an up-to-date record of the location and condition of the ACM's or presumed ACM's in the premises;
- assess the risk from the material;
- prepare a written plan from this material that sets out in detail how the risk will be managed, including ensuring proper maintenance or removal;
- take the steps needed to put the plan into action;
- review and monitor the plan and the arrangements made to put it in place; and
- set up a system for providing information on the location and condition of the material to anyone who is liable to work on or disturb it.

It is important to note that anyone who has information on the whereabouts of asbestos in the church premises is required to make this available to the duty holder, who will need to assess its reliability. Those who are not duty holders, but control access to the premises, have to co-operate with the duty holder in managing the asbestos.

Further information may be obtained from the HSE website at www.hse.gov.uk/asbestos and the full Regulations can be viewed at www.hse.gov.uk/pubns/books/1143.htm

It is important that churches be aware of these Regulations, which apply to church buildings, including church halls, but not to manses. A person or persons - the duty holder - should be appointed to carry out the assessment and follow-up action as necessary, as outlined in the paragraphs above.

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