

STATES OF JERSEY



DRAFT HEALTH AND SAFETY AT WORK (ASBESTOS - LICENSING) (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 25th October 2007
by the Minister for Social Security**

STATES GREFFE



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REPORT

These proposed Regulations reflect changes which have been made to the licensing aspect of asbestos-related legislation recently introduced into the U.K., and are intended to ensure that there is a consistent approach to the protection of workers from the risks associated with exposure to asbestos at work.

The proposed Regulations will ensure that the requirement for work with asbestos materials to be restricted to licensed contractors is proportionate and reflects current practice.

Financial and manpower statement

These proposed Regulations have no implications for the financial or manpower resources of the States.

Explanatory Note

These Regulations replace the Asbestos (Licensing) (Jersey) Regulations 1997, without substantial amendment. The amendments that are made are only of definitions and application. They are necessary to bring Jersey requirements into line with recently made U.K. Regulations. These were made to comply with amendments made to the E.U.'s Asbestos Workers Protection Directive.



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Arrangement

Regulation

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Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 9 of the Health and Safety at Work (Jersey) Law 1989^[1], have made the following Regulations –

1 Interpretation

In these Regulations, unless the context otherwise requires –

“asbestos” means any of the following fibrous silicates –

- (a) asbestos actinolite, CAS No 77536-66-4;
- (b) asbestos grunerite (amosite), CAS No 12172-73-5;
- (c) asbestos anthophyllite, CAS No 77536-67-5;
- (d) chrysotile, CAS No 12001-29-5;
- (e) crocidolite, CAS NO 12001-28-4;
- (f) asbestos tremolite, CAS No 77536-68-6,

and references to “CAS” followed by a numerical sequence are references to CAS Registry Numbers assigned to chemicals by the Chemical Abstracts Service, a division of the American Chemical Society;

“asbestos cement” means a material –

- (a) that is predominantly a mixture of cement and asbestos; and
- (b) that, in a dry state, absorbs less than 30% water by weight;

“asbestos coating” means a surface coating that –

- (a) contains asbestos for fire protection purposes or for both heat and sound insulation purposes; but
- (b) is not merely a coating (such as paint or ceiling plaster) that contains asbestos that is applied to provide a decorative or textured finish where any thermal or acoustic property of the coating is incidental to the main purpose of the coating;

“asbestos insulation” means a material that contains asbestos and is used for thermal, acoustic or other insulation purposes (including fire protection) but does not mean –

- (a) asbestos cement;
- (b) asbestos insulation board; or
- (c) an article of bitumen, plastic, resin or rubber that contains asbestos, where any thermal or acoustic properties of the article are incidental to its main purpose;

“asbestos insulation board” means a flat sheet, tile or building board that consists of a mixture of asbestos and other material but does not mean –

- (a) asbestos cement; or
- (b) an article of bitumen, plastic, resin or rubber that contains asbestos, where any thermal or acoustic properties of the article are incidental to its main purpose;

“Law” means the Health and Safety at Work (Jersey) Law 1989^[2];

“licence” means a valid licence granted under Regulation 3(2);

“work with asbestos insulation, asbestos coating or asbestos insulation board” means work in which asbestos insulation, asbestos coating or asbestos insulation board is removed, repaired or disturbed and includes such work carried out in a supervisory or ancillary capacity.

2 Work with asbestos insulation, asbestos coating or asbestos insulation board

- (1) Except as provided by paragraphs (2) and (3), an employer or selfemployed person must not undertake work with asbestos insulation, asbestos coating or asbestos insulation board, unless he or she –
 - (a) is the holder of a licence that authorizes its holder to undertake the work; and
 - (b) undertakes the work in compliance with the terms and conditions of the licence.
- (2) Paragraph (1) does not apply if the work does not require more than –
 - (a) one hour’s work by any one person in any period of 7 consecutive days; and
 - (b) 2 hours’ work by all persons undertaking the work.
- (3) Paragraph (1) does not apply if the work consists solely of –
 - (a) air monitoring or collecting samples for identification or sample analysis; or
 - (b) encapsulating or sealing a material, in a good condition, that contains asbestos.

3 Licences

- (1) A person may apply to the Minister for a licence.
- (2) The Minister –
 - (a) shall grant the licence if he or she considers it appropriate to do so; and
 - (b) may grant the licence subject to such terms and conditions as the Minister considers appropriate.
- (3) A licence is valid for the period (if any) specified in it.
- (4) The Minister may amend a term or a condition of a licence by written notice to its holder.
- (5) The Minister may revoke a licence by written notice to its holder if the holder –
 - (a) contravenes a condition of the licence;
 - (b) is convicted of an offence under Article 21 of the Law; or
 - (c) is served with a prohibition notice under Article 14 of the Law.
- (6) The holder of a licence must return it to the Minister –
 - (a) if required for amendment; or
 - (b) if it is revoked.

4 Exemptions

- (1) The Minister may issue a written certificate that exempts from these Regulations –
 - (a) a person or a class of people; or
 - (c) a, product or a class of products that contain asbestos.
- (2) An exemption is valid for the period (if any) specified in the certificate.
- (3) An exemption may be granted subject to terms and conditions.
- (4) The Minister may revoke an exemption by another written certificate.
- (5) The Minister must not grant an exemption unless he or she is satisfied, having regard to the relevant circumstances, that the health and safety of people who are likely to be affected by the exemption will not be prejudiced as a consequence of the exemption.

5 Recognition of licences granted by United Kingdom authorities

- (1) This Regulation applies where –
 - (a) a person who has a current licence granted under the Control of Asbestos Regulations 2006 or the Asbestos (Licensing) (Amendment) Regulations (Northern Ireland) 2000 of the United Kingdom, as from time to time amended or re-enacted, that authorizes the person to carry out work with asbestos insulation, asbestos coating or asbestos insulation board, is proposing to undertake that type of work in Jersey; and
 - (b) the licence has been inspected and approved by an inspector, and the inspector has given the licensee written confirmation of the approval.
- (2) The licence has effect in Jersey as if it were a licence granted by the Minister under these Regulations on the date on which it was granted in the United Kingdom.

6 Revocation and savings

- (1) The Asbestos (Licensing) (Jersey) Regulations 1997^[3] are revoked.
- (2) A licence, certificate or approval granted or given under the Regulations mentioned in paragraph (1) and in force immediately before their revocation continues in force as if it were a licence, certificate or approval granted or given under these Regulations.

7 Citation and commencement

- (1) These Regulations may be cited as the Health and Safety at Work (Asbestos - Licensing) (Jersey) Regulations 200.
- (2) They come into force 7 days after they are made.

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- [1] *chapter 05.300*
- [2] *chapter 05.300*
- [3] *chapter 05.300.05 (R&O.9119)*