

Non-licensable Work with Asbestos



HSENI Guidance for Doctors on the Control of Asbestos Regulations (NI) 2012

Medical Surveillance for Workers Carrying Out Non- licensable Work with Asbestos

Introduction

1. The Control of Asbestos Regulations (NI) 2012¹ replace the Control of Asbestos Regulations (NI) 2007 and apply to all work on asbestos-containing materials. The Regulations require that higher risk work with asbestos must only be carried out by contractors who hold a licence issued by the Health and Safety Executive for Northern Ireland (HSENI). Only short duration, lower risk, maintenance type tasks can be carried out by non-licensed workers. More information about non-licensable work can be found at www.hse.gov.uk/asbestos/essentials/index.htm. and in the Approved Code of Practice and guidance: *Work with materials containing asbestos* (L143).²
2. 'Licensable work' with asbestos is defined in the Regulations as work
where the exposure to asbestos of employees is not sporadic and of low intensity; or
 - *in relation to which the risk assessment cannot clearly demonstrate that the control limit will not be exceeded; or*
 - *on asbestos coating; or*
 - *on asbestos insulating board or asbestos insulation for which the risk assessment*
 - i. demonstrates that the work is not sporadic and of low intensity; or*
 - ii. cannot clearly demonstrate that the exposure limit will not be exceeded; or*
 - iii. demonstrates that the work is not short duration work.*
3. The control limit for **all types of asbestos** is the concentration of asbestos in the atmosphere of 0.1 fibres per cubic centimetre of air averaged over a continuous period of four hours. (Reg 2 (1)).
4. Regulation 22(3) of the Control of Asbestos Regulations (NI) 2012 places new duties on employers to maintain a health record for employees who carry out certain types of non-licensable work with asbestos and to ensure they receive statutory medical surveillance. The Regulations provide for a three-year transition period, which means that although these arrangements can be put in place from April 2012 they are not mandatory until 30 April 2015. The requirements also apply to self-employed people.
5. The existing requirements for employers of workers carrying out licensable asbestos work to maintain health records and make sure they receive medical surveillance at least every two years, conducted by a doctor appointed by HSENI, are carried forward in the 2012 Regulations and are unchanged.

¹ The Control of Asbestos Regulations (NI) 2012 can be accessed at <http://www.legislation.gov.uk/nisr/2012/179/contents/made>

² The Approved Code of Practice (L143) can be accessed at <http://www.hse.gov.uk/pubns/priced/l143.pdf>

6. This guidance informs doctors about how to conduct the medical surveillance required for workers exposed to asbestos undertaking certain types of non-licensable work only. Doctors carrying out medical surveillance for this type of work do not have to be appointed by HSENI but do need to meet certain conditions, see paragraph 18.

Asbestos-related deaths in Northern Ireland

7. In the ten year period ending December 2011 there have been 418 deaths where mesothelioma is recorded as the primary cause of death and 82 where asbestosis is the primary cause. Annual numbers of asbestos-related deaths in Northern Ireland are published on the HSENI website.³ Asbestos-related lung cancer cannot be distinguished from lung cancer caused by other agents, however, evidence suggests that there are equal numbers of deaths from asbestos-related lung cancer as there are from mesothelioma.
8. Asbestos-related diseases are the single greatest cause of occupational deaths in Great Britain, with approximately 4,500 deaths each year. Asbestos-containing materials were widely used in buildings until 1999 when their use was finally banned. Many buildings still contain asbestos materials. In GB the occupational groupings now most at risk of exposure are building maintenance workers and trades people, e.g. carpenters, plumbers, electricians, joiners etc, who disturb the fabric of buildings in the course of their activities.

Asbestos-related diseases

Conditions affecting the pleura

Pleural plaques and Diffuse Pleural thickening

9. Exposure to asbestos is associated with the development of pleural plaques and pleural thickening. Plaques are discreet localised areas of fibrosis that typically affect the lining of the inner chest wall. They do not alter the structure of the lungs or restrict their expansion. Diffuse pleural thickening if extensive however can impair pulmonary function and cause disability due to widespread constriction of the lungs. Neither pleural thickening or plaques develops into mesotheliomas.

Mesothelioma

10. Malignant mesotheliomas of the pleura and peritoneum are associated with exposure to asbestos. A background incidence is described⁴ and emerging research describes genetic influences.⁵ Smoking does not influence the risk of mesothelioma.
11. Early symptoms such as weight loss, fever and night sweating are often vague. Chest pain, breathlessness on exertion and/or pleural effusion are frequently

³ Asbestos related deaths 2001 -2010 www.hseni.gov.uk/about-hseni/statistics.htm

⁴ Peto, J. Rake, C. Gilham C. Hatch, J. Occupational, domestic and environmental mesothelioma risks in Britain. <http://www.hse.gov.uk/research/rrpdf/rr696.pdf>

⁵ Di Mario G. and Combo, P. <http://journal.publications.chestnet.org/article.aspx?articleid=1082462>

present at the time of diagnosis. Peritoneal mesothelioma may result in abdominal discomfort, a change in bowel habit and weight loss. Radiological appearances vary with the stage at which the tumour is first detected and whether or not it is associated with effusion.

12. There is a long latent period between exposure and presentation of the tumour, which may range from 15 to 60 years. Exposure to asbestos may have been brief as well as remote in time, although most cases have been associated with long periods of exposure to asbestos fibres.

Diseases of the lung

Asbestosis

13. Asbestosis is a fibrotic, interstitial lung disease which develops insidiously as a result of inhaling asbestos fibres. It usually affects the lung bases first. The diagnosis is made where there is a work history of past asbestos exposure and clinical examination shows late inspiratory crackles and where radiological examination (chest X-ray and/or CT scan) shows typical changes. Asbestosis in the early stages does not necessarily impair fitness for work. As the disease progresses, lung function may become impaired. In more severe cases, finger clubbing may occur, and death may result from pulmonary or congestive cardiac failure.
14. The removal of affected workers from further exposure appears to have little influence on subsequent progress of the disease. The latency period between exposure and the first radiological signs of fibrosis is many years. Current exposure profiles are much lower than the very large fibre loads previously associated with the mining and production industry. In addition, control measures have significantly improved. For these reasons, it is postulated that asbestosis will no longer continue to cause the significant morbidity and mortality which it had done in the past.

Lung cancer

15. Workers exposed to asbestos have an increased risk of developing lung cancer. Cigarette smoking further increases the risk and these two risk factors are thought to multiply together. Ex-smokers show a significantly lower excess risk than current smokers. Therefore, smokers should always be encouraged to stop smoking. Lung cancer induced by asbestos exposure is indistinguishable from that caused by other agents.

Other cancers

16. An association between cancers of the larynx and gastrointestinal tract (colorectal) and exposure to asbestos has been suggested. A population based screening programme for bowel cancer is now being implemented across Northern Ireland on a phased basis.⁶

⁶ See Link to Public Health Agency : <http://www.publichealth.hscni.net/directorate-public-health/service-development-and-screening/bowel-cancer-screening>

Other conditions

Asbestos corns

17. These are discrete nodules in the skin caused by implantation of asbestos fibres. Although sometimes painful, they are usually self-limiting and do not have any serious consequences.

Who can carry out medical surveillance?

18. Under the Control of Asbestos Regulations (NI) 2012 medical surveillance must be carried out by a 'relevant' doctor as defined. There are two types of medical practitioners who may carry out medical surveillance:

- For workers carrying out licensable work, the doctor must be appointed by HSENI. Further information is contained in Guidance for appointed doctors on the Control of Asbestos Regulations (NI) 2012 available from HSENI.⁷
- For workers who only carry out non-licensable work, the 'relevant' doctor can be the same as described above or an 'appropriate' fully registered medical practitioner, who holds a licence to practise. In this case *appropriate* means a medical practitioner on the GMC GP register or a suitably qualified registered and licensed medical practitioner, working in accordance with the GMC's Good Medical Practice guidance.

19. It is the responsibility of the employer to ensure they provide their employees with the medical surveillance appropriate to the type of work they carry out.

What medical surveillance is required?

20. Medical surveillance should consist of initial and periodic medical examinations. For employees carrying out non-licensable work, the first medical examination must be conducted on or before 30 April 2015. Periodic medical examinations must then be conducted at intervals of not more than three years while exposure continues.

21. For employees who start non-licensable work with asbestos on or after 1 May 2015 a medical examination must be carried out before such work starts, unless a suitable examination has been carried out in the previous three years.

22. The purposes of medical surveillance are to:

- provide workers with objective information about their current state of health;
- alert workers to any early indications of asbestos-related disease;
- warn workers of the increased risk of lung cancer from the combined exposure of smoking and asbestos;
- alert employers or the patient's own GP, with signed consent, to any particular problems; and
- emphasise the need for employees to use available control measures and follow good working practices.

⁷ HSENI, 83 Ladas Drive, Belfast. BT6 9FR. Tel: 028 9024 3249. Fax: 028 9023 5383. Email: emasmail@hseni.gov.uk.

23. Regulation 22 of the Control of Asbestos Regulations (NI) 2012 requires that medical surveillance is 'adequate'. In order to comply with this, your examination should consist of:

- completion of the respiratory symptom questionnaire form (a copy is reproduced for information in Appendix 1);
- a clinical examination, with emphasis on the respiratory system, and particular reference to restriction of chest expansion, the presence of basal crackles and finger clubbing; and
- measurement of lung function, including FEV1 and FVC.

Certificate of medical examination

24. After each medical examination, the doctor must complete an **original** Certificate of Medical Examination for each person examined. The certificate to be used is reproduced in Appendix 2. This certificate should be passed to the employer (or self-employed person). The employee should also be given their own **original** certificate. These certificates should be kept in a safe place by the employer for at least four years after the date they were issued.

25. Issuing a certificate following the medical examination only provides evidence that statutory medical surveillance as required by the Control of Asbestos Regulations (NI) 2012 has been carried out. It does not constitute an opinion that the employee concerned is fit or unfit to work with asbestos. Certificates of fitness or unfitness for work with asbestos under Control of Asbestos Regulations (NI) 2012 are not required and must not be issued under these regulations.

Record keeping

26. It is recommended that a copy of the completed respiratory symptoms questionnaire and certificate of examination issued are kept and details of the clinical examination recorded in accordance with normal record keeping procedures for doctors as required under the GMC's Good Medical Practice.

27. Occasionally, employers, or HSENI or district council environmental health officers, may request confirmation that an individual has undergone a statutory medical examination under Control of Asbestos Regulations (NI) 2012. This might arise, for example, where there is a need to determine if a Certificate of Medical Examination is genuine. The doctor can confirm the person's name, National Insurance number and date of examination, but clinical details should remain confidential.

Referral

28. If the medical surveillance is not carried out by the patient's GP, the results of pulmonary function testing, together with a note of any abnormal findings, should be communicated, with the patient's consent, to their GP. It would be prudent to have a written record, including signed consent, in the medical file, confirming that consent was requested and given.
29. Where abnormal findings are identified, the GP should refer the patient to an appropriate specialist in accordance with normal procedures.

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (NI) 1997 (RIDDOR) and Industrial Injuries Disablement Benefit

30. Asbestosis, lung cancer and mesothelioma in employees exposed to asbestos are reportable diseases under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (NI) 1997 (RIDDOR).⁸ Employers and self-employed people have a duty to report these diseases when informed in writing of the specific diagnosis by a registered medical practitioner.
31. Diffuse pleural thickening (if it results in obliteration of the costophrenic angle), asbestosis, lung cancer and mesothelioma arising from previous exposure to asbestos are 'prescribed diseases'. This means affected workers may be able to claim Industrial Injuries Disablement Benefit. They should contact the Social Security Agency about their eligibility for benefit.

Concerns about incidental exposure

32. Employers or employees may on occasion approach doctors for advice when a suspected incidental exposure to asbestos fibres has occurred. HSENI recommends that the employer investigates any incident and that the employee asks their GP to make an entry in their medical record for future reference.
33. Further information on inadvertent asbestos exposure is available on the website of the GB Health and Safety Executive website at: www.hse.gov.uk/asbestos/faq.htm.

⁸ Information on RIDDOR is available from HSENI; <http://www.hseni.gov.uk/contact-us/report-an-incident.htm>

Remuneration

34. You have a right to be paid for conducting statutory medical surveillance. The employer (or self-employed person) using your services is responsible for paying your fees, not HSENI.
35. No BMA national agreement applies for the fees to be charged for the provision of statutory medical surveillance under the Control of Asbestos Regulations (NI) 2012. The BMA guidance note *Fees for Part-time Medical Services* provides advice on the factors it might be helpful to consider when setting professional rates, in the absence of BMA suggested fees. It is important to agree the fee with the employer before undertaking the work.

Appendix 1: Respiratory symptoms questionnaire – Non-Licensable Work

Control of Asbestos Regulations (NI) 2012

Regulation 22(3)

Occupational Information

1. Does your work involve working with asbestos containing material? YES NO
2. How long have you been doing this work?

Respiratory Symptoms

3. Have you ever, or since your last examination, had:
- (a) an injury or operation affecting your chest? YES NO
- (b) pleurisy? YES NO
- (c) pulmonary tuberculosis? YES NO
4. Do you usually cough during the day (or at night when on night work)? YES NO
5. Do you usually bring up any phlegm from your chest on most days (or nights) for as much as three months each year? YES NO
6. Do you usually get short of breath when walking with people of your own age on level ground? YES NO
7. During the past three years, or since your last examination, have you had any chest illness, which has kept you from your usual activities for as much as a week? (If NO, go to question 10) YES NO
8. Did you bring up more phlegm than usual in any of these illnesses? (If NO, go to question 10) YES NO
9. How many illnesses like this have you had in the past three years or since your last examination?

Smoking

10. Have you ever smoked? (If NO this is the end of the questionnaire) YES NO
11. (a) Do you smoke at present? YES NO
- (b) Have you given up smoking in the last month? YES NO

(c) How old were you when you started smoking regularly?

Enter age in years (A regular smoker is defined as one who has smoked as much as one cigarette a day, one small cigar a day or one ounce of tobacco a month, for a long as a year.)

(d) How many manufactured cigarettes do you usually smoke or were you smoking per day

(e) How much tobacco do you usually smoke or were you smoking per day? (Enter number of grams (1 ounce = 28 grams))

(f) How much pipe tobacco do you usually smoke or were you smoking per day? (Enter number of grams (1 ounce = 28 grams))

(g) How many small cigars do you usually smoke or were you smoking per day?

(h) How many large cigars do you usually smoke or were you smoking per day?

Ex – Smokers only

12 How old were you when you last smoked?

Appendix 2: Control of Asbestos (NI) Regulations 2012:

Regulation 22(3)

Certificate of Medical Examination - Non-licensable work

Name of employer / business name

Address

I hereby certify that I have examined (name and address)

National Insurance number

and/ or

Date of Birth

In accordance with Regulation 22 of The Control of Asbestos Regulations (NI) 2012 in respect of notifiable non-licensable work.

The medical examination was carried out on

(Please write date in full e.g. 01 January 2012)

Signature of Doctor

Date

Registration Number of Doctor

Address Stamp for practice

Note

- Regulation 22(4) of The Control of Asbestos Regulations (NI) 2012 required employers to keep this certificate or a copy for at least 4 years
- This is not a fitness for work examination for the specific work conditions in relations to asbestos work.

REFERENCES AND FURTHER INFORMATION

Information on asbestos and associated publications can be found on HSE's website at: www.hse.gov.uk/asbestos and is available for download free of charge.

It is recommended that information is viewed directly from the website to ensure access to the current version. A site search facility is also available and is useful to locate information on specific topics.

1. Control of Asbestos Regulations (Northern Ireland) 2012
<http://www.legislation.gov.uk/nisr/2012/179>
2. Work with materials containing asbestos. Control of Asbestos Regulations 2006. Approved Code of Practice and Guidance L143
<http://www.hse.gov.uk/pubns/books/l143.htm>
3. Asbestos essentials: A task manual for building, maintenance and allied trades on non-licensed activities work. www.hse.gov.uk/asbestos/essentials
4. Asbestos related diseases www.hse.gov.uk/asbestos/dangerous.htm
5. Inadvertent exposure to asbestos: <http://www.hse.gov.uk/asbestos/faq.htm>
6. Information on asbestos related deaths in Northern Ireland can be accessed on <http://www.hseni.gov.uk/about-hseni/statistics.htm>
7. An advice sheet on non-licensed work is available at <http://www.hse.gov.uk/pubns/guidance/a0.pdf>

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