1993 No. 170

EUROPEAN COMMUNITIES

CLEAN AIR

The Control of Asbestos in the Air Regulations (Northern Ireland) 1993

Made . . . . . *31st March 1993*

Coming into operation . . *1st June 1993*

The Department of the Environment, being a department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the control of air pollution, and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Control of Asbestos in the Air Regulations (Northern Ireland) 1993, and shall come into operation on 1st June 1993.

Interpretation

2.—(1) In these regulations—

"asbestos" means the following fibrous silicates — actinolite, amosite, anthophyllite, chrysotile, crocidolite or tremolite;

"the Directive" means Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos(**c**);

(2) The Interpretation Act (Northern Ireland) 1954(**d**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Limit value for the discharge of asbestos into the air during the use of asbestos

3.—(1) Any person having control of an asbestos work shall ensure that the concentration of asbestos emitted through the discharge ducts into the air during the use of asbestos does not exceed 0.1 milligrammes of asbestos per cubic metre of air discharged.

(2) The chief inspector shall ensure that measurements of the concentration of asbestos so emitted are taken at regular intervals, and that the sampling and analysis procedures and methods used to secure compliance with paragraph 1 are in accordance with those described in the Annex to the

(a) S.I. 1988/785
(b) 1972 c. 68
(c) O.J. No. L85, 28.3.87, p. 40
(d) 1954 c. 33 (NI)

Directive or with any other procedure or method which gives equivalent results.

(3) In this regulation—

"the Alkali Act" means the Alkali, &c. Works Regulation Act 1906(**a**) as amended by the Alkali, &c. Works Order (Northern Ireland) 1991(**b**);

"asbestos work" means any work described in paragraph (54) of the First Schedule to the Alkali Act;

"the chief inspector" means the person constituted as such pursuant to section 10(1) of the Alkali Act, and includes a deputy appointed under section 10(5) of that Act;

"raw asbestos" means the product resulting from the primary crushing of asbestos ore;

"the use of asbestos" means activities which involve the handling of a quantity of more than 100 kilogrammes of raw asbestos per year and which concern—

(*a*) the production of raw asbestos ore, excluding any process directly associated with the mining of the ore; or

(*b*) the manufacturing or industrial finishing of any of the following products using raw asbestos—

asbestos cement, asbestos cement products, asbestos fillers, asbestos filters, asbestos floor coverings, asbestos friction products, asbestos jointing, packaging, and reinforcement materials, asbestos paper and card, or asbestos textiles.

Control of environmental pollution by asbestos resulting from the working of products containing asbestos

4.—(1) Any person undertaking activities involving the working of products containing asbestos shall ensure that those activities do not cause significant environmental pollution by asbestos fibres or dust emitted into the air.

(2) Any person undertaking the demolition of buildings, structures or installations containing asbestos, and the removal from them of asbestos or materials containing asbestos, involving the release of asbestos fibres or dust into the air shall ensure that significant environmental pollution is not caused thereby.

(3) In this regulation—

"fibre" has the same meaning as in Part BII of the Annex to the Directive;

"significant environmental pollution" has the same meaning as in Article 7 of the Directive;

"the working of products containing asbestos" means activities other than the use of asbestos (as defined in regulation 3(3)) which are liable to release asbestos into the environment.

(a) 1906 c. 14
(b) S.R. 1991 No. 49

Offences and penalties

5.—(1) Any person who fails to comply with regulation 3(1) or 4 shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £2,000(**a**) or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine not exceeding £2,000 or both.

(2) In proceedings for an offence under these regulations it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or by any person under his control.

(3) Where the commission by any person of an offence under these regulations is due to the act or default of some other person that other person shall be guilty of the offence and may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are brought against the first-mentioned person.

Sealed with the Official Seal of the Department of the Environment on 31st March 1993.

(L.S.) *R. W. Rogers*
Assistant Secretary

(**a**) *See* para 1(1)(*d*) of Sch. 2 to 1972 c. 68 read with Arts. 5 and 8 of the Fines and Penalties (Northern Ireland) Order 1984 [S.I. 1984/703 (N.I. 3)] as amended by Sch. 4 to S.R. 1984 No. 253

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations together with the Control of Asbestos at Work Regulations (Northern Ireland) 1988 (S.R. 1988 No. 74) and the Alkali, &c. Works Regulation Act 1906 as amended implement the requirements of Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos, so far as asbestos emissions into the air are concerned.

Regulation 3 requires persons having control of asbestos works to ensure that the concentration of asbestos emitted into the air during the use of asbestos (as defined in that regulation) does not exceed 0.1 milligrammes of asbestos per cubic metre of air discharged.

It also provides for the chief inspector appointed under the Alkali, &c. Works Regulation Act 1906 to ensure that measurements of the asbestos so discharged are taken periodically in accordance with the terms of the Directive.

Under regulation 4, persons undertaking activities involving the working of products containing asbestos, or the demolition of buildings, structures, or installations containing asbestos are required to ensure that significant environmental pollution is not caused.

Regulation 5 provides that any person who fails to comply with regulation 3(1) or 4 shall be guilty of an offence and be liable on summary conviction to a fine of up to £2,000 or, on conviction on indictment, to imprisonment for up to two years, or such a fine, or both.

Copies of the relevant Directive and of the extract from the Official Journal of the European Communities may be obtained from Her Majesty's Stationery Office, 16 Arthur Street, Belfast BT1 4GD.