



# The Control of Asbestos Regulations 2006



**WILBOURN  
ASSOCIATES**

Chartered  
Environmental  
Surveyors

# What it means for your Property Investment

At least 3,000 people in the UK will die from mesothelioma and asbestos related lung cancer each year as a result of exposure to asbestos as compared with only 3,000 on the roads.

The government have recently updated the Control of Asbestos at Work Regulations to form the Control of Asbestos Regulations 2006 (CAR 2006). These regulations require all non-domestic properties to have an asbestos management plan.

## WHY YOU MUST ACT NOW

Properties may receive on-the-stop inspections by the Health and Safety Executive (HSE). Many commercial properties have undertaken an asbestos survey but in many cases the results of the asbestos survey have not been incorporated into an asbestos management plan. It is understood that the HSE will increasingly undertake inspections not only to ensure that an asbestos survey has been undertaken but also to confirm that the results have been incorporated into an asbestos management plan. Criminal prosecution could result from failure to fully comply with CAR 2006.

## WHO IS RESPONSIBLE?

The party responsible for implementation of an asbestos management plan is described in CAR 2006 as the 'dutyholder'. This is defined as "every person who by virtue of a contract or tenancy has an obligation for the repair or maintenance of the premises, or, in the absence of such, control of those premises or access thereto or egress therefrom."

Whilst this is likely to be the tenant there may be circumstances where the owner including any pensioner trustee will be the 'dutyholder'. Where this is the case, the pensioner trustee will have to undertake an asbestos survey and create a management plan at the expense of the fund.

Properties may be declined by pensioner trustees if compliance with the regulations is not considered when being acquired for inclusion in a SSAS or SIPP.



## WHAT SHOULD I DO?

A survey will be needed before a management plan can be created. There are 3 types of survey:

### ***Type 1 Location and assessment survey:***

A Type 1 survey is 'presumptive' whereby unless there is strong evidence to the contrary, materials suspected to contain asbestos must be subsequently managed as asbestos.

Type 1 surveys are the least costly of the surveys. The presumptive approach means that the materials identified are guilty until proven innocent.

### ***Type 2 Standard sampling, identification and assessment survey:***

Type 2 surveys include sampling of materials suspected to contain asbestos.

Although more expensive than Type 1 they are likely to prove more cost effective in the longer term as only materials proven to contain asbestos require ongoing management. These are known as Asbestos Containing Materials (ACMs). These surveys are recommended to form the basis of an asbestos management plan.

### ***Type 3 Full access sampling and identification survey:***

Type 3 surveys are used where demolition or major refurbishment is planned. They are not appropriate for development of an asbestos management plan in an occupied building. Type 3 surveys must be undertaken in vacant premises since destructive testing may be hazardous to health, and business premises that are operational may be affected.



## WHO TO APPOINT

Asbestos management plans and asbestos surveys must be undertaken by suitably qualified insured and accredited personnel. The bona fides of any asbestos surveyor/contractor should be carefully examined.

All asbestos samples should be analysed at a UKAS accredited laboratory and from 6 April 2007 following the removal of ACM's all employers will have to ensure that site reoccupation certificates are issued by appropriate accepted bodies.

There is a limited pool of expertise of accredited and insured personnel.

## FURTHER ADVICE

As specialist advisors on environmental matters Wilbourn Associates can help with this complex subject.

Our experts can provide Type 1, Type 2 and Type 3 surveys. We can also project manage the removal of all ACMs.

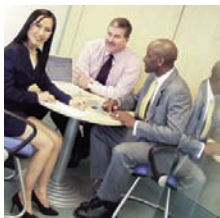




## WHAT ACTION IS REQUIRED?

The dutyholder must manage asbestos in line with the regulations which will involve for each property:-

- ➔ **Identification** - identify all asbestos containing materials (ACMs) and assess their condition;
- ➔ **Record** - record the location, type, form and condition of ACMs;
- ➔ **Risk assessment** - assess the risk of exposure to ACM's for building occupants and others who may come into contact with them (eg. contractors carrying out work on site);
- ➔ **Prepare and implement a management plan** - prepare a written plan including measures for managing the risk such as properly maintaining asbestos and where necessary its safe removal;
- ➔ **Provide information to others** - provide details of the location and condition of ACMs to every person likely to disturb them and also the emergency services;
- ➔ **Review** - review this information periodically.





## Vision Statement

*We operate in a people business and we do business by being accessible, flexible and placing our customers first. This will enable us to: Build a sustainable people focused business which is the first point of call for advice on contaminated land and environmental risk and its impact on land, property and construction.*



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