

Occupational Safety and Health (Control of Asbestos at Work) Regulations 2014

GN No. 216 of 2014

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THE OCCUPATIONAL SAFETY AND HEALTH ACT

Regulations made by the Minister under section 100(1) of the Occupational Safety and Health Act

1. These regulations may be cited as the **Occupational Safety and Health (Control of Asbestos at Work) Regulations 2014**.

2. (1) In these regulations –

“adequate” means adequate, having regard only to the nature and degree of exposure to asbestos;

“asbestos” means the fibrous form of a mineral silicate belonging to a rock-forming mineral of the groups specified in the First Schedule or any mixture containing one or more of these groups;

“asbestos area” and “respirator zone” shall be construed in accordance with regulation 16;

“competent employee” means an employee who has received adequate information, instruction and training in accordance with regulation 9;

“conformity assessment body” has the same meaning as in the Mauritius Accreditation Service Act;

“control measure” –

(a) means a measure taken to prevent or reduce exposure to asbestos;
and

(b) includes –

(i) the provision of systems of work and supervision;

(ii) the cleaning of workplaces, premises or plant equipment; and

(iii) the provision and use of engineering controls and personal protective equipment;

“handle” means break, carry, clean, collect, cover, demolish, install, lag, manipulate, paint, scratch, strip, wet, wrap or any act of similar nature;

“ISO/IEC 17025 general requirements for the competence of testing and calibration laboratories” means a standard issued by the International Standard Organisation and used by testing and calibration laboratories;
“MAURITAS” means the Mauritius Accreditation Service established under the Mauritius Accreditation Service Act;

“maximum exposure limit” means a concentration of asbestos in the atmosphere when measured in accordance with the 1997 World Health Organisation recommended method, of 0.1 fibres per cubic centimetre of air averaged over a continuous period of 4 hours;

“medical examination” includes any laboratory tests, lung function test and X-rays that a medical practitioner may require;

“MS/ISO/IEC 17025 General requirements for the competence of testing and calibration laboratories” means the ISO/IEC 17025 adopted by the Mauritius Standards Bureau;

“raw asbestos” means any asbestos of the groups specified in the First Schedule which are in their pure form;

“site clearance certificate for reoccupation” means a certificate issued by a conformity assessment body to confirm that premises, or parts of premises, where work with asbestos has been carried out have been thoroughly cleaned upon completion of the work and any asbestos waste removed;

“use” means cut, disturb, drill, fix, grind, hammer, maintain, paint, pierce, place, polish, remove, repair, screw of any act of similar nature.

(2) For the purposes of these regulations, except as specified in regulation 9(2), in determining whether –

- (a) an employee is exposed to asbestos; or
- (b) the extent of such exposure exceeds the maximum exposure limit,

no account shall be taken of any respiratory protective equipment which, for the time being, is being worn by the employee.

3. Application

(1) Subject to paragraph (2) and (3), these regulations shall apply to every place of work where the concentration of asbestos exceeds the maximum exposure limit.

(2) Regulations 8, 16(1)(a) and 19 shall not apply to a place of work where a risk assessment made under regulation 6 determines that the exposure to asbestos of any employee does not exceed the maximum exposure limit.

(3) Regulation 15, in so far as it requires an employer to ensure that premises are thoroughly cleaned, shall not apply to –

- (a) a fire authority in respect of premises attended, for the purpose of fighting a fire or in an emergency, maintained by that authority; or

- (b) the employer of persons who attend a ship in dock premises for the purpose of fighting a fire, or in an emergency.

4. Duties under these regulations

Where any duty is placed, by these regulations, on an employer in respect of his employees, the employer shall, so far as is reasonably practicable, be under a like duty in respect of any other person who may be affected by the work activity, except that the duties of the employer –

- (a) under regulation 9, shall not extend to persons who are not his employees unless the persons are on the premises where the work is being carried out; and
- (b) under regulation 19, shall not extend to persons who are not his employees.

5. Identification and prohibition of asbestos

(1) An employer shall not –

- (a) carry out any work which exposes, or is liable to expose, any of his employees to asbestos unless before commencing the work, the employer carries out suitable and sufficient assessment to identify –
 - (i) whether asbestos, if any, is contained; and
 - (ii) if so, the type of asbestos contained,in the material used for the work or in the premises where the work is to be carried out;
- (b) undertake work in demolition, maintenance, or any other work which exposes or is liable to expose his employees to asbestos in respect of any premises unless before commencing the work, he carries out suitable and sufficient assessment to identify –
 - (i) whether asbestos, if any, is contained; and
 - (ii) if so, the type of asbestos contained,in the premises where the work is to be carried out;
- (c) handle, store or use asbestos of the amphibole group referred to in the First Schedule, or raw asbestos at his place of work;
- (d) spray any form of asbestos in his place of work.

(2) Notwithstanding paragraph (1)(c), the handling, storing or using of existing asbestos of the amphibole group and raw asbestos for the purpose of removal and disposal is permitted.

6. Assessment of work which exposes employees to asbestos

(1) An employer shall not carry out work which is liable to expose his employees to asbestos unless the employer has –

- (a) made a suitable and sufficient assessment of –
 - (i) the risk created by the exposure to the health of the employees; and
 - (ii) the measures that need to be taken to meet the requirements of these regulations;
- (b) recorded the significant findings of the risk assessment as soon as is practicable after that risk assessment is made; and
- (c) implemented the measures referred to in paragraph (a).

(2) In addition to paragraph (1), the risk assessment shall –

- (a) subject to regulation 5, identify the type of asbestos to which the employees are liable to be exposed;
- (b) determine the nature and degree of exposure which may occur in the course of the work;
- (c) consider the effects of control measures which are taken in accordance with regulation 11;
- (d) consider the results of monitoring of exposure in accordance with regulation 17;
- (e) set out the steps to be taken –
 - (i) to prevent the exposure; or
 - (ii) to reduce the exposure to the lowest level reasonably practicable;
- (f) consider the results of any medical surveillance that is relevant; and
- (g) include such additional information as the employer may need in order to complete the risk assessment.

(3) (a) Subject to subparagraph (b) the risk assessment shall be reviewed every year.

- (b) The risk assessment shall forthwith be reviewed where –
 - (i) there is reason to suspect that the existing risk assessment is no longer valid;
 - (ii) there is a significant change in the work to which the risk assessment relates; or

(iii) the results of any monitoring carried out pursuant to regulation 17 show that the risk assessment is necessary.

(c) Where –

(i) as a result of the review, changes to the risk assessment are required, the changes shall be made; and

(ii) in case the changes relate to the significant findings of the risk assessment or are themselves significant, the changes shall be recorded.

(4) Where the risk assessment carried out under paragraph (2) determines that the exposure of the employees to asbestos may exceed the maximum exposure limit, the employer shall keep, for such time as the work is carried out, a copy of the findings of the risk assessment at the premises where the work is being carried out.

7. Plan of work

(1) (a) No employer shall undertake any work with asbestos unless he prepares a suitable written plan of work detailing how the work is to be carried out.

(b) The employer shall keep a copy of the plan of work at the premises where the work is being carried out for such time as the work continues.

(c) The work referred to in paragraph (a) includes the removal of asbestos from the demolition of any building, structure, plant, installation or ship.

(2) The plan of work referred to in paragraph (1)(a) shall include –

(a) the nature and probable duration of the work;

(b) the location of the place where the work is to be carried out;

(c) the methods to be applied where the work involves the handling of asbestos or materials containing asbestos;

(d) the characteristics of the equipment to be used for –

(i) the protection and decontamination of persons carrying out the work;

(ii) the protection of other employees on or near the worksite.

(e) the measures the employer intends to take to comply with the requirements of regulation 10.

(3) Where demolition or refurbishment of premises is carried out, the plan of work shall, as far as is reasonably practicable, specify that, unless the removal is likely to cause greater risk to the employees, asbestos shall be removed before any other work starts.

(4) The employer shall, so far as is reasonably practicable, ensure that the work to which the plan of work relates is carried out in accordance with that plan.

8. Notification of work with asbestos

(1) (a) Subject to paragraph (2), an employer shall not carry out any work with asbestos unless he has, not less than 14 days before commencing the work, notified the Permanent Secretary in writing of the work.

(b) The notification under subparagraph (a) shall include the details set out in the Second Schedule.

(c) Where there is material change in the work which is likely to affect the particulars notified under subparagraph (b), the employer shall, within 7 days of the change, notify the Permanent Secretary in writing of that change.

(2) This regulation shall apply to any work in which an employee is exposed, or is liable to be exposed, to asbestos unless the extent of that exposure does not exceed or is not liable to exceed the maximum exposure limit.

9. Information, instruction and training

(1) Every employer shall ensure that adequate information, instruction and training is given to employees –

- (a) who are, or are liable to be, exposed to asbestos so that they are aware of –
 - (i) the properties of asbestos and its effects on health, including its interaction with smoking;
 - (ii) the types of products or materials likely to contain asbestos;
 - (iii) the operations which may result in asbestos exposure and the importance of preventive controls to minimise such exposure;
 - (iv) safe work practices, control measures, and protective equipment;
 - (v) the purpose, choice, limitations, proper use and maintenance of respiratory protective equipment;
 - (vi) emergency procedures;
 - (vii) hygiene requirements;
 - (viii) decontamination procedures;
 - (ix) waste handling procedures;
 - (x) medical examination requirements; and

- (xi) the maximum exposure limit and the need for air monitoring,
in order to safeguard themselves and other employees;
 - (b) who carry out work in connection with the employer's duties under these regulations so that they can carry out that work effectively.
- (2) The information, instruction and training specified in paragraph (1) shall be –
 - (a) given at regular intervals and before commencement of work;
 - (b) adapted to take account of significant changes in the type of work carried out or methods of work used by the employer; and
 - (c) provided in a manner appropriate to the nature and degree of exposure identified by the risk assessment, and so that the employees are aware of –
 - (i) the findings of the risk assessment, and
 - (ii) the results of any air monitoring carried out with an explanation of the findings.

10. Prevention or reduction of exposure to asbestos

- (1) Every employer shall –
 - (a) prevent the exposure of his employees to asbestos so far as is reasonably practicable;
 - (b) where it is not reasonably practicable to prevent such exposure –
 - (i) take the measures necessary to reduce the exposure of his employees to asbestos to the lowest level reasonably practicable by measures other than the use of respiratory protective equipment, and
 - (ii) ensure that the number of his employees who are exposed to asbestos at any one time is as low as is reasonably practicable.
- (2) Where it is not reasonably practicable for the employer to prevent the exposure of his employees to asbestos in accordance with paragraph (1)(a), the measures referred to in paragraph (1)(b)(i) shall include, in order of priority –
 - (a) the design and use of appropriate work processes, systems and engineering controls and the provision and use of suitable work equipment and materials in order to avoid or minimise the release of asbestos; and
 - (b) the control of exposure at source, including adequate ventilation systems and appropriate organisational measures,

and the employer shall, so far as is reasonably practicable, provide the employees concerned with suitable respiratory protective equipment.

(3) Where it is not reasonably practicable to reduce the exposure of an employee to asbestos to below the maximum exposure limit by the measures referred to in paragraph (1)(b)(i), in addition to taking those measures, the employer shall provide the employee with suitable respiratory protective equipment which will reduce the concentration of asbestos in the air inhaled by that employee to a concentration which is –

- (a) below the maximum exposure limit; and
- (b) as low as is reasonably practicable.

(4) Every employer shall –

- (a) ensure that no employee is exposed to asbestos, in a concentration in the air inhaled, which exceeds the maximum exposure limit; or
- (b) where the maximum exposure limit is exceeded –
 - (i) forthwith inform the employees and ensure that work does not continue in the affected area until adequate measures have been taken to reduce the employees' exposure to asbestos to below the maximum exposure limit;
 - (ii) identify, as soon as is reasonably practicable, the reasons for the maximum exposure limit being exceeded, and take appropriate measures to prevent it being exceeded again, and
 - (iii) check the effectiveness of the measures taken pursuant to subparagraph (b)(ii) by carrying out immediate air monitoring.

11. Use of control measures

(1) Every employer who provides any control measure or other means or facility pursuant to these regulations, shall take all reasonable steps to ensure that such measure, means or facility is properly used or applied, as the case may be.

(2) Every employee shall make full and proper use of any control measure or other means or facility provided under these regulations and –

- (a) where relevant, take all reasonable steps to ensure that the control measure or other means or facility is returned after use to any accommodation provided for it; and
- (b) report forthwith any defect discovered to his employer.

12. Maintenance of control measures

(1) Every employer who provides any control measure to meet the requirements of these regulations shall ensure that –

- (a) in the case of plant and equipment, including engineering controls and personal protective equipment, it is maintained in an efficient state, in efficient working order, in good repair and in a clean condition; and
- (b) in the case of provision of systems of work and supervision, and of any other measure, it is reviewed, and if necessary, revised at suitable intervals.

(2) Where exhaust ventilation equipment or respiratory protective equipment, excluding disposable respiratory protective equipment, is provided to meet the requirements of these regulations, the employer shall ensure that thorough examination and test of the equipment are carried out, at suitable intervals, by a competent person.

- (3) (a) Every employer shall keep a record of –
 - (i) the examination and test carried out under paragraph (2); and
 - (ii) the repairs carried out as a result of the examination and test.

(b) The record or a suitable summary of the record shall be kept available for inspection for at least 5 years from the date on which it is made.

13. Provision and cleaning of protective clothing and equipment

(1) Every employer shall provide adequate and suitable protective clothing and equipment to employees who are exposed, or liable to be exposed, to asbestos.

(2) Subject to paragraph (3), the employer shall ensure that the protective clothing and equipment are adequately cleaned after completion of the asbestos works.

(3) The employer shall, so far as is reasonable practicable, provide disposable protective clothing and equipment to his employees.

(4) Every disposable personal protective clothing and equipment provided under paragraph (3) shall be disposed of as asbestos waste.

(5) The cleaning of protective clothing and equipment referred to in paragraph (2) shall be carried out –

- (a) where those premises are suitably equipped for the cleaning, on the premises where the exposure to asbestos has occurred; or
- (b) in a suitably equipped laundry.

(6) Every employer shall ensure that –

- (a) protective clothing which has been used, and is to be removed from the premises for cleaning, further use or disposal as asbestos waste or otherwise, is packed in a suitable container before being removed; and
- (b) the container is marked as specified in the Third Schedule as if it were a product containing asbestos.

14. Duty to prevent or reduce spread of asbestos

Every employer shall prevent or, where this is not reasonably practicable, reduce to the lowest level reasonably practicable, the spread of asbestos from any place where work under his control is carried out.

15. Cleanliness of premises and plant

(1) Every employer who undertakes work which exposes or is liable to expose his employees to asbestos shall ensure that –

- (a) the premises, or those parts of the premises where the work is carried out, and the plant used in connection with that work are kept in a clean state; and
- (b) where such work has been completed, the premises, or the parts of the premises where the work was carried out, are thoroughly cleaned and any asbestos waste removed.

(2) Every employer shall ensure that a site clearance certificate for reoccupation is issued in respect of the premises referred to in paragraph (1).

16. Designated areas

(1) Every employer shall ensure that any area in which work is carried out under his control is designated as –

- (a) an asbestos area, where any employee would be liable to be exposed to asbestos in that area;
- (b) a respirator zone, where the concentration of asbestos fibres in the air in that area exceeds or is liable to exceed the maximum exposure limit.

(2) Asbestos areas and respirator zones shall be clearly and separately demarcated and identified by notices indicating –

- (a) whether the area is an asbestos area, a respirator zone or both, as the case may be; and
- (b) in the case of a respirator zone, that an employee who enters the zone shall wear the respiratory protective equipment as the exposure of the employee to asbestos fibres is liable to exceed the maximum exposure limit.

(3) No employer shall permit any employee, other than an employee who by reason of his work is required to be in an asbestos area or a respirator zone, to enter or remain in any such area.

(4) Every employer shall ensure that only employees who have received adequate information, instruction and training in accordance with regulation 9 –

- (a) enter a respirator zone; and
 - (b) supervise other employees who enter a respirator zone.
- (5) Every employer shall ensure that –
- (a) employees do not eat, drink or smoke in an area designated as an asbestos area or a respirator zone; and
 - (b) arrangements are made for the employees to eat or drink in an appropriate place.

17. Air monitoring

(1) Every employer shall take adequate steps to monitor the exposure of his employees to asbestos where such monitoring is appropriate for the protection of the health of the employees and shall, for that purpose, ensure compliance with regulation 18 also.

(2) (a) The employer shall keep a record of any monitoring carried out under paragraph (1).

- (b) The record under paragraph (a) or a summary thereof shall be kept –
 - (i) where a health record is required to be kept under regulation 19, for at least 30 years;
 - (ii) in any other case, for at least 5 years.

18. Compliance with MS/ISO/IEC 17025 and ISO/IEC 17025

(1) Every employer who requests a local conformity assessment body to carry out any measurement of the concentration of asbestos fibres present in the air, whether or not in pursuance of regulation 17(1), shall ensure that the conformity assessment body is accredited by MAURITAS as complying with MS ISO/IEC 17025 or its equivalent.

(2) Every employer who requests a foreign conformity assessment body to carry out any measurement of the concentration of asbestos fibres present in the air, whether or not in pursuance of regulation 17(1), shall ensure that the conformity assessment body is accredited by an accreditation body, which is signatory to the Mutual Recognition Arrangement of the International Laboratory Accreditation Cooperation as complying with ISO/IEC 17025 or equivalent.

(3) Every employer shall ensure that a site clearance certificate for reoccupation issued under regulation 15(2) is in compliance with MS ISO/IEC 17025 or ISO/IEC 17025, as the case may be.

19. Health records and medical surveillance

(1) Every employer shall ensure that a health record containing particulars specified by a medical practitioner relating to every employee who is exposed to asbestos is kept unless the exposure does not exceed the maximum exposure limit.

(2) The employer shall keep the record or a certified copy of the record for at least 30 years from the date of the last entry made in that record.

20. Washing and changing facilities

(1) Every employer shall ensure that, for any of his employees who is exposed or liable to be exposed to asbestos, there is provided adequate and suitable facilities for –

- (a) washing and changing;
- (b) the storage of –
 - (i) personal clothings not worn during working hours;
 - (ii) protective clothings, if any; and
 - (iii) respiratory protective equipment, if any.

(2) The facilities provided for the storage of the items listed in paragraph (1)(b) shall be separate from each other.

21. Storage, distribution and marking of raw asbestos, asbestos containing materials and asbestos waste

Every employer who undertakes work with asbestos shall ensure that any raw asbestos, asbestos containing materials or asbestos waste is not –

- (a) stored;
- (b) received into or dispatched from any place of work; or
- (c) distributed, except in a totally enclosed distribution system, within any place of work;

unless it is in a suitable and sealed container clearly marked in accordance with the provisions of the Third Schedule.

22. Procedures to deal with occupational accidents, dangerous occurrences and imminent danger related to the use, storage and handling of asbestos

(1) (a) In order to protect the health of its employees from an occupational accident, dangerous occurrence or imminent danger related to the use, storage and handling of asbestos in a work process or to the removal or repair of asbestos-containing materials at the workplace, every employer shall ensure that –

- (i) appropriate procedures, including the provision of relevant safety drills, have been prepared;
- (ii) information on the procedures, including details of relevant work hazards and hazard identification arrangements, and specific hazards likely to arise at the time of an occupational accident, dangerous occurrence, immediate danger including any fire, is available; and

(iii) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs.

(b) The employer shall ensure that the procedures specified in subparagraph (a) are tested at regular intervals.

(2) The employer shall ensure that information on the procedures and systems specified in paragraph (1) are –

(a) made available to the relevant emergency services to enable those services, whether internal or external to the workplace, to prepare their own response procedures and precautionary measures; and

(b) if practicable, displayed at the workplace.

(3) Paragraph (1) shall not apply where –

(a) the results of the risk assessment made under regulation 6 show that there is only an insignificant risk to the health of employees because of the quantity of asbestos present at the workplace; and

(b) the measures taken by the employer to comply with the duty under regulation 10 are sufficient to control that risk.

(4) In the event of an occupational accident, dangerous occurrence or immediate danger related to the unplanned release of asbestos at the workplace, the employer shall ensure that –

(a) immediate steps are taken to –

(i) mitigate the effects of the event;

(ii) restore the situation to normal, and

(iii) inform any person who may be affected;

(b) only those persons who are responsible for the carrying out of repairs and other necessary work are permitted in the affected area and are provided with –

(i) appropriate respiratory protective equipment and protective clothing, and

(ii) any necessary specialised safety equipment and plant, which shall be used until the situation is restored to normal.

23. The Occupational Safety, Health and Welfare (Asbestos) Regulations 2004 are revoked.

24. These regulations shall come into operation on 20 October 2016.

Made by the Minister on 20 October 2014.

FIRST SCHEDULE
[Regulation 2]

GROUP	MINERALS
Amphibole group	Actinolite
	Amosite (brown asbestos, cummingtonite-grunerite)
	Anthophyllite
	Crocidolite (blue asbestos)
	Tremolite
Serpentine group	Chrysotile (white asbestos)

SECOND SCHEDULE
[Regulation 8(1)(b)]

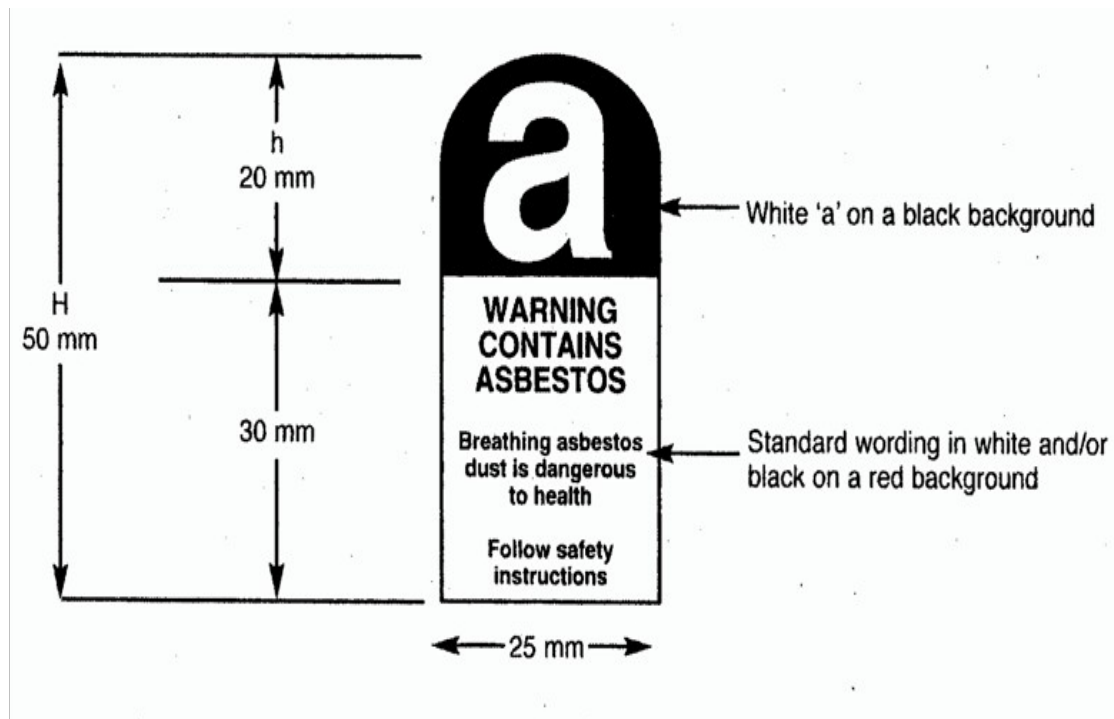
PARTICULARS TO BE INCLUDED IN A NOTIFICATION

1. Name, address and telephone number of –
 - (a) the notifier; and
 - (b) his usual place of business;
 2. A brief description of –
 - (a) the location of the work site;
 - (b) the type(s) of asbestos used or handled as set out in the First Schedule;
 - (c) the maximum quantity of asbestos held on the premises at any one time;
 - (d) the activities or process involved; and
 - (e) the products manufactured, where applicable.
 3. Where work activity has not yet begun, the proposed date of commencement of the work activity.
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THIRD SCHEDULE
[Regulations 13(6) and 21]

1. Subject to paragraphs 2 and 3, the marking to be used on –
- (a) raw asbestos
 - (b) asbestos waste; and
 - (c) asbestos containing materials (including used protective clothing to which regulation 13(1) applies),

shall be in the form and in the colours of the following diagram and shall comply with the specification set out in paragraphs 2 and 3.



2. In the case of any product containing crocidolite, the words “contains asbestos” shown in the diagram shall be replaced by the words “contains crocidolite/blue asbestos”.

3. (1) Where the marking is printed directly onto a product a single colour contrasting with the background colour may be used.

(2) The dimensions in millimetres of the marking shall be those shown on the diagram, except that larger measurements may be used, but in that case the dimension of the marking indicated as ‘h’, on the diagram in paragraph 1, shall be 40 per cent of the dimension indicated as ‘H’ on that diagram.

(3) The marking shall be clearly and indelibly printed so that the words in the lower half of the label can be easily read, and those words shall be printed in black or white.

4. In addition to the provisions of any other legislation relating to occupational safety and health, where any material may undergo processing or finishing it shall bear a marking containing any safety instructions appropriate to the particular material and in particular the following instructions –

- (a) operate, if possible, out of doors or in a well-ventilated place;
- (b) preferably use hand tools or low speed tools equipped, if necessary, with an appropriate dust extraction facility. High speed tools shall be equipped with an appropriate dust extraction facility;
- (c) if possible, dampen before and during cutting or drilling;
- (d) dampen dust and place it in a properly closed receptacle and dispose of it safely.

5. Any additional safety information given on any marking shall not be inconsistent with the information set out in paragraph 1.

6. Marking of packaged and unpackaged products in accordance with the foregoing paragraphs shall be effected by means of –

- (a) an adhesive marking firmly affixed to the material or its packaging, as the case may be;
- (b) a tie-on marking firmly attached to the material or its packaging, as the case may be; or
- (c) direct printing onto the material or its packaging, as the case may be.

7. Where, in the case of an unpackaged material, it is not reasonably practicable to comply with the provisions of paragraph 1, the marking shall be printed on a suitable sheet accompanying the material.

8. Marking of raw asbestos and asbestos waste shall be effected in accordance with paragraph 1.
