

# OHS Regulations Reform

## **Dangerous Goods Act 1985**

### **(SECTION 55)**

#### **Order Prohibiting the Removal of Certain Asbestos at Workplaces**

##### *Preamble*

1. The removal of asbestos at workplaces is regulated by the Occupational Health and Safety Regulations 2007 (the OHS Regulations). The OHS Regulations describe the circumstances in which asbestos may be removed by an employer or self-employed person who is a removalist who holds a licence under the OHS Regulations, and the circumstances in which an unlicensed employer or self-employed person may conduct a limited amount of removal work.
2. Generally, the provisions of the OHS Regulations that regulate the removal of asbestos are limited in their application to asbestos-containing material that is fixed to or installed in a building, structure, ship or plant. They generally do not apply to the removal of asbestos that is not so fixed or installed (including asbestos-contaminated dust).
3. Until the OHS Regulations are amended so that they also apply to asbestos that is not fixed or installed (including asbestos-contaminated dust), it is expedient for the public safety to make an Order, subject to conditions and restrictions, prohibiting the removal of such asbestos.

##### *Order*

Being of the opinion that it is expedient for the public safety to do so, the Governor in Council under section 55 of the Dangerous Goods Act 1985 makes the following Order:

1. The removal of asbestos (including asbestos-contaminated dust) that is not fixed to or installed in a building, structure, ship or plant at any premises that are a workplace is prohibited.
2. The prohibition under clause 1 does not apply in relation to the removal of asbestos:
  - a) by an employer or self-employed person who is the holder of a Class A asbestos removal licence, or by an employee of such a licence-holder;
  - b) by an employer or self-employed person who is the holder of a Class B asbestos removal licence, or by an employee of such a licence-holder, if that removal is associated with or derived from the removal of non-friable asbestos-containing material that is fixed to or installed in a building, structure, ship or plant;
  - c) by an employer or self-employed person, if that removal is associated with or derived from the removal of non-friable asbestos-containing material that is fixed to or installed in a building, structure, ship or plant where:
    - (i) the area of asbestos-containing material removed is less than 10 square metres in total; and
    - (ii) the removal of the asbestos-containing material is not undertaken for more than 1 hour in any period of 7 days;
  - d) by an employer or self-employed person, if the asbestos does not constitute more than a minor contamination;
  - e) by an employer in the course of the handling, including for the purpose of removal or transport for

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disposal, of aircraft products and automotive products likely to contain asbestos-containing material;

- f) by an employer in the course of the maintenance of dust extraction equipment contaminated with asbestos;
- g) by an employer in the course of processing of construction or demolition material in accordance with the method determined by the Authority under regulation 4.3.1(b) of the OHS Regulations.

3. This Order comes into operation on 1 July 2007.

4. The Order Prohibiting the Removal of Certain Asbestos at Workplaces dated 16 December 2003 is revoked.

5. In this Order:

“asbestos” has the same meaning as in the OHS Regulations;

“asbestos-containing material” has the same meaning as in the OHS Regulations;

“Authority” has the same meaning as in the OHS Act;

“Class A asbestos removal licence” has the same meaning as in the OHS Regulations;

“Class B asbestos removal licence” has the same meaning as in the OHS Regulations;

“employer” has the same meaning as in the OHS Act;

“employee” has the same meaning as in the OHS Act;

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“non-friable”, in relation to asbestos, means asbestos that is not “friable” within the meaning of the OHS Regulations;

“OHS Act” means the Occupational Health and Safety Act 2004;

“OHS Regulations” means the Occupational Health and Safety Regulations 2007;

“plant” has the same meaning as in the OHS Act;

“removal” means transfer for the purpose of subsequent disposal;

“self-employed person” has the same meaning as in the OHS Act;

“workplace” has the same meaning as in the OHS Act.

**Dated 26 June 2007 – Victorian Government Gazette**

**Responsible Minister**

**TIM HOLDING MP**

**Minister for Finance, WorkCover and the Transport Accident Commission**