ASBESTOS CONSULTING

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ASBESTOS ABATEMENT REGULATIONS

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SCHEDULE

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Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates—

"approved plan of work" means a written site-specific methodology as contemplated in regulation 15 that is at least co-signed by the asbestos client, registered asbestos contractor and approved inspection authority;

"asbestos" means the following fibrous silicates:

(a) Asbestos actinolite, CAS No. 77536-66-4;

(b) asbestos grunerite (amosite), CAS No. 12172-73-5;

(c) asbestos anthophyllite, CAS No. 77536-67-5;

(d) chrysotile, CAS No. 12001-29-5 or CAS No. 132207-32-0;

(e) crocidolite, CAS No. 12001-28-4;

(f) asbestos tremolite, CAS No. 77536-68-6; and

(g) any mixture containing these fibrous silicates;

"asbestos cement products" means a range of building materials that were manufactured using moulding and compression techniques, consisting of a hardened mixture of asbestos fibres, cement and water;

"asbestos clearance certificate" means a written document verifying that the regulated asbestos fibre concentration in the air meets the clearance indicator;

"asbestos client" means any person for whom asbestos work is performed;

"asbestos coating" means a surface coating which contains asbestos for fire protection, heat insulation or sound insulation, but does not include textured decorative coatings;

"asbestos-containing material" means asbestos as well as any material that contains asbestos and includes asbestos cement products, asbestos coating, asbestos insulation board, asbestos insulation, asbestos textured decorative coatings, asbestos contaminated soil and other asbestos-containing materials;

"asbestos disposal site" means a site specifically designated for the purpose of asbestos disposal in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

"asbestos dust" means airborne or settled dust, which contains or is likely to contain regulated asbestos fibres;

"asbestos in place" includes any asbestos, asbestos cement products, asbestos coatings, asbestos-containing material, asbestos dust, asbestos insulation, asbestos insulation board and asbestos waste at the workplace;

"asbestos insulation" means any asbestos-containing material, which is used for thermal, acoustic or other insulation purposes, including fire protection, except—

(a) asbestos cement, asbestos coating or asbestos insulating board; or

(b) any article of bitumen, plastic, resin or rubber, which contains asbestos and which thermal and acoustic properties are incidental to its main purpose;

"asbestos insulating board" means any flat sheet, tile or building board consisting of a mixture of asbestos and cement or any other material, but which is not—

(a) asbestos coating; or

(b) an article of bitumen, plastic, resin or rubber, which contains asbestos and which thermal and acoustic properties are incidental to its main purpose;

"asbestos removal site" means a workplace where asbestos removal work is performed;

"asbestos removal supervisor" means a competent person responsible for supervision of physical asbestos work processes and coordination of asbestos removal on an asbestos removal site;

"asbestos risk assessment" means a risk assessment and risk categorisation of potential exposure to asbestos dust;

"asbestos waste" means an undesirable or superfluous asbestos or asbestos-containing product or by-product or the undesirable or superfluous asbestos or asbestos-containing emission or residue of any process or activity, which has been—

(a) discarded by any person; or

(b) accumulated and stored temporarily with the purpose of discarding it, with or without prior treatment connected with the discarding thereof;

"asbestos work" means work that exposes or is likely to expose an employee to asbestos dust, including transporting, storing, removing, handling, treating, repairing and disposing of asbestos;

"CAS No." means the Chemical Abstracts Service Registry Number;

"Chief Director: Provincial Operations" means the provincial director as defined in regulation 1 of the General Administrative Regulations, 2003, published as Government Notice R.929 in *Gazette* No. 25129 of 25 June 2003;

"clearance indicator" means the measured airborne concentration of regulated asbestos fibres is less than 0,01 fibres per millilitre (f/ml), as measured in accordance with HSG 248 or an equivalent method;

"competent person" means a person who—

(a) has, in respect of the work or task to be performed, the required knowledge, training and experience and, where applicable, qualifications specific to asbestos work or related tasks: Provided that, where appropriate qualifications and training are registered in terms of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), those qualifications and that training must be regarded as the required qualifications and training; and

(b) is familiar with the Act and the applicable regulations made under the Act;

"demolition work" means a method to dismantle, wreck, break, pull down or knock down a structure or part thereof by way of manual labour, machinery or the use of explosives;

"environmental air monitoring" includes static air monitoring for regulated fibres conducted downwind from outdoor type 2 asbestos work or outside asbestos enclosures where type 3 asbestos work is performed or in any area where there is the potential for asbestos contamination;

"exposed to asbestos" means exposed or likely to be exposed to asbestos dust while at the workplace, and **"exposure"** has a corresponding meaning;

"HSG 248" means Health and Safety Guidance 248: Asbestos – The Analysts' Guide for Sampling, Analysis and Clearance Procedures, published in 2005, or latest update;

"incidental asbestos exposure" means unintentional exposure to airborne asbestos at a workplace where asbestos is present;

"non-asbestos-related work" includes work performed in the vicinity of asbestos-containing materials or asbestos cement products, but excludes work performed on or with asbestos-containing materials or asbestos cement products;

"OEL" means the occupational exposure limit, the value of which is set by the Minister, for a stress factor in the workplace;

"OEL for asbestos" means an occupational exposure limit of 0,1 regulated asbestos fibres per millilitre of air measured in accordance with HSG 248;

"registered asbestos contractor" means either a contractor, a mandatory or an employer who conducts type 2 asbestos work or type 3 asbestos work or asbestos removal work, who is registered with the chief inspector;

"regulated asbestos area" means an area demarcated and controlled as contemplated in regulation 18;

"regulated asbestos fibre" means a particle of asbestos with a length-to-diameter ratio greater than 3 to 1, a length greater than 5 micrometres and a diameter less than 3 micrometres;

"removal of asbestos" means all tasks included in the process of removing asbestos from the location specified in the inventory of asbestos in place to the final disposal site;

"repair of asbestos-containing materials" means restoring asbestos-containing materials to a safe condition, after damage, using non-destructive methods in a manner that does not cause the release of asbestos fibres;

"respiratory protective equipment" means a device which is worn over at least the mouth and nose to control the inhalation of air that is not safe;

"risk categorisation" means the grouping and ordering of potential asbestos exposure risks as contemplated in regulation 5(3);

"short-term exposure limit" means a short-term exposure limit of 0,6 regulated asbestos fibres per millilitre of air, measured over a continuous 10-minute period;

"the Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

"type 1 asbestos work" means—

(a) painting of asbestos cement products in a manner that does not require surface preparation and does not cause the release of asbestos fibres; or

(b) the removal of less than 10 square metres of asbestos cement products or equivalent gutters and piping or asbestos insulating board, where removal work may not be repeated on the same site within a period of six months; and,

does not require registration as a registered asbestos contractor with the chief inspector;

"type 2 asbestos work" means—

(a) the repair or encapsulation of asbestos cement products in a manner that does not require surface preparation; or

(b) the removal of asbestos cement products or asbestos insulating board; and,

requires registration as a type 2 registered asbestos contractor with the chief inspector;

"type 3 asbestos work" means—

(a) the removal, repair or encapsulation of any asbestos and asbestos-containing material; and,

requires registration as a type 3 registered asbestos contractor with the chief inspector;

"UN Transport of Dangerous Goods" means the UN Recommendations on the Transport of Dangerous Goods – Model Regulations, Volumes 1 and 2, which are guidance documents developed by the United Nations to harmonise dangerous

goods transport regulations, may be updated from time to time, and are commonly known as the UN Orange Book.

Scope of application

2. (1) Subject to subregulation (2), these Regulations apply to every employer and self-employed person who may expose any person to asbestos dust at the workplace.

(2) Regulations 5(2), 8(1), 9(4), 12(3)*(d)*, 16(4), 17 and 23 do not apply to self-employed persons.

Identification of asbestos in place

3. An employer or self-employed person must, as far as is reasonably practicable—

(a) ensure that all asbestos-containing materials at the workplace are identified by a competent person;

(b) if it is uncertain whether the suspected material contains asbestos, either deem the material to be asbestos-containing material or arrange for a sample of that material to be analysed for the presence of asbestos by a laboratory competent to carry out such analyses;

(c) if part of the workplace is inaccessible and considered by a competent person as likely to contain asbestos, assume that asbestos is present in that area;

(d) if no asbestos is identified as per subregulations *(a)*, *(b)* and *(c)*, ensure that the asbestos-free status of the workplace is substantiated in writing by a competent person: Provided that subregulation *(d)* does not apply to an employer who occupies or uses a structure as defined in the Construction Regulations, 2003, published as Government Notice R.1010 in *Gazette* No. 25207 of 18 July 2003, where construction commenced at least three years after promulgation of the Regulations for the Prohibition of the Use, Manufacturing, Import and Export of Asbestos and Asbestos-containing Materials, 2007, published as

Government Notice R.341 in *Gazette* No. 30904 of 28 March 2008, under section 24B of the Environment Conservation Act, 1989 (Act No. 73 of 1989).

Inventory of asbestos in place

4. (1) An employer or self-employed person must obtain the services of a competent person to ensure that all materials identified as, or assumed to be, asbestos-containing material, as contemplated in regulation 3, are entered into an inventory of asbestos in place, which is kept at the workplace or premises.

(2) With regard to any disagreement as to whether any substance is in fact asbestos, the health and safety representative, health and safety committee or a person nominated by the employees may require that a sample of that substance be taken and definitive identification of the substance be determined by an approved inspection authority, provided that the cost of the identification is borne by the employer.

(3) The inventory of asbestos in place must contain, as far as is reasonably practicable, the following information about each of the asbestos-containing materials-

(a) The date on which the material was identified;

(b) a description of the material, quantity and extent of deterioration;

(c) the location as detailed on a floor plan;

(d) confirmation of labelling and signage as required by regulation 20;

(e) the risk categorisation derived from the asbestos risk assessment as detailed in regulation 5(3); and

(f) a description of potential exposure scenarios as required in regulation 6(2)*(b)*.

(4) The employer or self-employed person must ensure that a competent person reviews and, if necessary, revises the inventory of asbestos in place for the workplace at intervals not exceeding 24 months.

(5) The inventory of asbestos in place should be revised more frequently if—

(a) further asbestos-containing material is identified; and

(b) the asbestos-containing material has deteriorated significantly or is removed, damaged, sealed, coated or encapsulated.

(6) Where the removal of asbestos or repair of asbestos-containing material is planned, information in the inventory of asbestos in place must be adequately detailed with respect to the work to be carried out.

(7) The employer, self-employed person or asbestos client must ensure that a copy of the inventory of asbestos in place, or relevant part thereof, is—

(a) given to the mandatory before any asbestos removal or repair work commences;

(b) given to the registered asbestos contractor and approved inspection authority before asbestos removal or repair work commences;

(c) readily accessible to employees and health and safety representatives at the workplace;

(d) in the case of transfer of ownership, provided to the new owner of the premises; and

(e) given to the approved inspection authority before asbestos removal or repair work commences.

(8) The mandatory who carries out the removal of asbestos or the repair of asbestos-containing material at a workplace must—

(a) obtain a copy of the inventory of asbestos in place from the employer, self-employed person or asbestos client; and

(b) if suspected asbestos-containing materials are located on the structure, plant or machinery, inform the employer, self-employed person or asbestos client who must ensure that a competent person determines whether the substance in question is asbestos-containing material.

(9) In the event of work carried out at a workplace and potential exposure to airborne asbestos—

(a) the employer, self-employed person or asbestos client, as the case may be, must ensure that the person authorising such work is given a copy of the inventory of asbestos in place;

(b) the person authorising the work as contemplated in subregulation *(a)*, from the inventory of asbestos in place, must determine what future task and incident-related potential exposure scenarios are applicable to the work, including identifying recommended controls; and

(c) the employer, self-employed person or asbestos client, as the case may be, must ensure that the recommended controls are implemented with regard to the work.

(10) All asbestos-containing material listed in the inventory of asbestos in place, as required by subregulation (3), must be clearly labelled or provided with signage in accordance with regulation 20.

Asbestos risk assessment

5. (1) If asbestos is identified in terms of regulation 3, then the employer or self-employed person must ensure that an asbestos risk assessment is carried out, as far as is reasonably practicable, immediately by a competent person and thereafter at intervals not exceeding 24 months.

(2) An employer contemplated in subregulation (1) must, before causing an asbestos risk assessment to be made, consult with the relevant health and safety representative or relevant health and safety committee and inform them in writing of the arrangements made for the asbestos risk assessment, give them reasonable time to comment thereon, and ensure that the results of the asbestos risk assessment are made available to them for comment.

(3) The asbestos risk assessment must, as an outcome, have a risk categorisation based on the potential for exposure to asbestos for each item of asbestos-containing material, which must be derived from the following:

(a) The health impacts of asbestos;

(b) the number of persons potentially exposed at the workplace;

(c) the potential for damage or disturbance of asbestos-containing materials at the workplace, also by maintenance activities, potential incidents and normal occupant activities; and

(d) the condition of asbestos-containing material, including state of deterioration.

(4) The risk categorisation contemplated in subregulation (3) must be used to determine the need for keeping in place, repairing or removing the asbestos-containing material.

(5) The asbestos risk assessment for asbestos repair work, as required in subregulations (1), (2) and (3), must include the following:

(a) The assessed risk of any asbestos exposure relating to each job step;

(b) the controls necessary to reduce the risk of exposure to as low as is reasonably practicable;

(c) an indication whether environmental air monitoring is required; and

(d) if exposure risk indicates that the OEL may be exceeded, an indication that the employer must obtain the services of an occupational medical practitioner to fulfil the requirements of regulation 17(1)*(b)*.

(6) The asbestos risk assessment for asbestos removal work, as part of the plan of work as contemplated in regulation 15 for asbestos-containing materials identified for removal, must consider the following:

(a) The aspects detailed in subregulation (5);

(b) the risk assessment carried out in accordance with regulation 12(2);

(c) the potential exposure of persons other than employees;

(d) the potential contamination of the air, ground and water;

(e) the thorough decontamination of employees and the workplace;

(f) the transportation of asbestos-containing materials and asbestos waste; and

(g) emergency scenarios.

(7) An employer or self-employed person must obtain the services of an approved inspection authority that must review and endorse the following at intervals not exceeding six years-

(a) The inventory of asbestos in place as required by regulation 4; and

(b) the asbestos risk assessment as required by subregulation (1):

Provided that the review and endorsement are not required if the work was carried out by an approved inspection authority.

Asbestos management plan

6. (1) If asbestos-containing materials are identified, as required in regulation 3, the employer or self-employed person must ensure that a written asbestos management plan for the workplace is prepared by a competent person.

(2) The asbestos management plan must include at least the following:

(a) A procedure that contains at least measures related to—

(i) the implementation of regulations 3, 4, 5, 8 and 20 at the workplace;

(ii) the repair, removal and management of asbestos-containing materials; and

(iii) the implementation of the Regulations for Prohibition of the Use, Manufacturing, Import and Export of Asbestos and Asbestos-containing Materials, 2007;

(b) where asbestos-containing materials have been identified in the inventory of asbestos in place, a specific procedure which will, as far as is reasonably practicable, reduce the risk of exposure of employees, as well as incidental asbestos exposure, for the following scenarios-

(i) Incidents;

(ii) emergencies;

(iii) removal work; and

(iv) repair work; and

(c) a policy, procedure and implementation plan for phasing out existing asbestos-containing materials at the workplace, which considers the following:

(i) The principle of 'reasonably practicable'; and

(ii) reasons for decisions.

(3) The employer or self-employed person must review and, if necessary, revise the asbestos management plan at intervals not exceeding eight years or if any information contemplated in subregulation (2) changes.

Information, instruction and training

7. (1) An employer must—

(a) provide, to persons who may have incidental asbestos exposure, information, instruction and training—

(i) through induction training upon employment; and

(ii) when the inventory of asbestos in place is reviewed;

(b) ensure that the information, instruction and training contemplated in subregulation *(a)* include, at least—

(i) the sources of potential exposure as identified in the inventory of asbestos in place contemplated in regulation 4;

(ii) the potential health risks associated with exposure to asbestos;

(iii) procedures, including exposure controls and personal decontamination to be followed when asbestos-containing materials have been damaged, or in the event of accidental spillage or any other similar emergency situation likely to result in the release of asbestos dust;

(iv) the safe disposal of asbestos waste;

(v) procedures for record keeping; and

(vi) the inventory of asbestos in place as contemplated in regulation 4.

(2) Where an employee undertakes non-asbestos-related work, where there is a potential for exposure to asbestos dust, the employer must ensure that the employee is adequately and comprehensively informed, instructed and trained in both practical and theoretical knowledge with regard to—

(a) the sources of potential exposure identified in the inventory of asbestos in place as contemplated in regulation 4;

(b) the potential health risks associated with exposure to asbestos;

(c) task and incident-related potential exposure scenarios, as well as precautionary measures to be taken to prevent exposure; and

(d) procedures to be followed in the event of accidental disturbance or any other similar emergency situation likely to result in the release of asbestos dust.

(3) In the case of removal of asbestos or repair of asbestos-containing materials, as contemplated in regulation 12, the employer must ensure that all supervisors and employees are adequately and comprehensively informed, instructed and trained in both practical and theoretical knowledge with regard to—

(a) the OEL and its meaning;

(b) the importance of good housekeeping at the workplace, fall protection, the correct use of personal protective equipment and personal hygiene;

(c) the contents of plans of work regarding the handling, removal and temporary storage of any asbestos-containing material;

(d) the correct use of control measures to limit the spread of asbestos dust outside the regulated asbestos area;

(e) the control measures to limit the exposure of employees inside the regulated asbestos area;

(f) procedures to be followed in the event of accidental spillage, disturbance or any other similar emergency situation likely to result in the release of asbestos dust;

(g) procedures for reporting and correcting failures of control measures likely to result in the release of asbestos dust; and

(h) the safe disposal of asbestos waste.

(4) Training contemplated in subregulation (3) must—

(a) be provided by a person deemed competent by the chief inspector;

(b) have a minimum contact duration of eight hours; and

(c) as an outcome, provide employees with asbestos training certificates.

(5) Refresher training with a minimum contact duration of two hours must be provided at least annually or at more frequent intervals if—

(a) work methods change;

(b) the type of work carried out changes significantly;

(c) the type of equipment used to control exposure changes; or

(d) deemed a requirement by the occupational health and safety committee.

(6) An employer must ensure that up-to-date records of employee training are made available at the workplace that has asbestos in place.

(7) An employer must ensure that current employee asbestos training certificates, as contemplated in subregulation (4)*(c)*, are provided to employees upon termination of employment.

Duties of persons who may be exposed

8. (1) Employees who may be exposed to asbestos in place must—

(a) obey any lawful instruction pertaining to occupational health and safety given by or on behalf of the employer;

(b) attend asbestos awareness training in the inventory of asbestos in place for the building; and

(c) report any asbestos-containing material that has been damaged to the employer or health and safety representative of the workplace, as the case may be, who must report it to the employer.

(2) Persons involved in non-asbestos-related maintenance, who may be exposed to asbestos, must—

(a) obtain a copy of the relevant part of the inventory of asbestos in place for the applicable workplace where non-asbestos-related maintenance will be carried out;

(b) prevent damage to or disturbance of asbestos in place; and

(c) if damage or disturbance occurs, stop work immediately and report such damage or disturbance to the employer or to the health and safety representative of the workplace, who must report it to the employer.

(3) Persons involved in type 1 asbestos work must obey any lawful instruction pertaining to occupational health and safety given by or on behalf of the employer, as applicable, regarding—

(a) the acquisition of a copy of the relevant part of the inventory of asbestos in place for the workplace;

(b) the demarcation of the regulated asbestos area, as required in regulation 18, to prevent unauthorised entry, using signage as per Annexure 1;

(c) as far as is reasonably practicable, the use of non-destructive wet methods during removal procedures;

(d) the use of appropriate tools and equipment to limit, as far as is reasonably practicable, the release of asbestos dust;

(e) the appropriate type and use of personal protective equipment and clothing;

(f) the thorough decontamination of equipment;

(g) the containment, and labelling in terms of regulation 20, and disposal of asbestos waste in terms of regulation 21; and

(h) the disposal of used disposable overalls and respiratory protective equipment, where applicable, as asbestos waste.

(4) Any person involved in type 2 or type 3 asbestos work, who may be exposed to asbestos at the workplace, must obey any lawful instruction pertaining to occupational health and safety, given by or on behalf of the employer or a self-employed person, regarding—

(a) compliance with requirements of the asbestos plan of work that was approved for that site-specific asbestos work in terms of regulation 15;

(b) as far as is reasonably practicable, the use of non-destructive wet methods during asbestos removal work;

(c) the prevention of asbestos dust becoming airborne;

(d) the appropriate type and use of personal protective equipment and clothing;

(e) wearing of monitoring equipment to measure personal exposure to asbestos;

(f) reporting for medical surveillance as required by regulation 17;

(g) the cleaning up and disposal of any asbestos waste;

(h) decontamination of the structure of a workplace, building or plant, of any visible dust residue where asbestos removal work has been undertaken;

(i) housekeeping at the workplace, personal hygiene and good environmental and health practices, including eating, drinking and smoking in designated places, as provided;

(j) information and training received as contemplated in regulation 7; and

(k) the correct decontamination procedures that must be followed as given in the approved plan of work.

Control of exposure to asbestos

9. (1) An employer or self-employed person must ensure that the exposure of a person to asbestos is either prevented or, where this is not reasonably practicable, adequately controlled: Provided that the control of exposure is regarded as adequate if the measured airborne concentration of regulated fibres is—

(a) at or below the OEL for asbestos; or

(b) above the OEL for asbestos, but the reason has been identified and action is taken, as soon as is reasonably practicable, to lower airborne concentrations to a level as low as reasonably practicable below the OEL for asbestos.

(2) Where reasonably practicable, an employer or self-employed person must control exposure to asbestos—

(a) by limiting the number of persons who will be exposed or may be exposed;

(b) by limiting the period during which persons will be exposed or may be exposed;

(c) by limiting the amount of asbestos dust that may contaminate the working environment;

(d) by introducing engineering control measures for the control of exposure to asbestos, which include the following:

(i) Process separation or enclosure;

(ii) bonding of asbestos fibres with other materials to prevent the release of asbestos dust;

(iii) the use of wet methods, where appropriate; and

(iv) the provision of a negative pressure unit with a filtration efficiency of at least 99 per cent for particles one micrometre in size, in the case of type 3 asbestos work, with a fault

indicator to provide early warning of a failure of the negative pressure unit; and

(e) by complying with the requirements of regulation 19.

(3) With regard to the contamination of water with asbestos, an employer or self-employed person must ensure that—

(a) any water that is contaminated with asbestos as a result of work being performed is passed through a filtration system before being released into any environment or water system;

(b) a suitable water filtration system is used, which will ensure that the quantity of asbestos being released or entering into any environment or water system is reduced as far as is reasonably practicable; and

(c) contaminated parts of the filtration system, when discarded, are disposed of as asbestos waste.

(4) By introducing appropriate written work procedures that an employee must follow, an employer or self-employed person must ensure that—

(a) asbestos-containing materials are safely handled and disposed of in the appropriate manner; and

(b) installations, equipment, tools and negative pressure units are safely used, decontaminated and maintained.

(5) An employer or self-employed person must report to the Chief Director: Provincial Operations, by telephone, electronic mail or similar means of communication, any spill, disturbance or uncontrolled release of asbestos, which may be considered a health hazard.

Notification of asbestos work

10. (1) No employer, self-employed person or asbestos client may carry out any type 1 asbestos work unless the Chief Director: Provincial Operations has been notified in writing of the location, venue and contact details of where the asbestos work will be done, at least seven days prior to commencement of such work.

(2) No employer, self-employed person or asbestos client may carry out any type 2 or type 3 asbestos work unless the Chief Director: Provincial Operations

has been notified, in writing, at least seven days prior to commencement of such work.

(3) A shorter time period for notification contemplated in subregulations (1) and (2) may be allowed by the Chief Director: Provincial Operations in the event of an emergency.

(4) Written notification contemplated in subregulation (2) must be provided in the format indicated in Annexure 2.

(5) The relevant Chief Director: Provincial Operations must ensure that acknowledgement of receipt is provided, in writing, to the employer, self-employed person or asbestos client within the seven day notification period.

Duties of asbestos client for asbestos work

11. (1) An asbestos client, employer or self-employed person carrying out type 1 asbestos work must—

(a) provide an up-to-date inventory of asbestos in place, as contemplated in regulation 4, when asbestos work is planned;

(b) ensure that an asbestos risk assessment, as contemplated in regulation 5, is carried out prior to asbestos work;

(c) ensure that a written safe work procedure is developed and followed; and

(d) as far as is reasonably practicable, provide adequate information, instruction and training, as contemplated in regulation 7, to any person who may be exposed to asbestos as a result of that asbestos work.

(2) An asbestos client, employer or self-employed person planning type 2 or type 3 asbestos work must—

(a) provide an up-to-date inventory of asbestos in place, as contemplated in regulation 4, to the registered asbestos contractor and approved inspection authority;

(b) if asbestos-containing material intended for removal or repair is not identified in the inventory of asbestos in place, review and update the inventory;

(c) ensure that an asbestos risk assessment is carried out prior to asbestos work;

(d) appoint, in writing, an approved inspection authority;

(e) ensure that the appropriately registered asbestos contractor performs type 2 or type 3 asbestos work as per the asbestos plan of work;

(f) ensure that notification of asbestos work is given as contemplated in regulation 10(2);

(g) ensure that they have co-signed the asbestos plan of work for the asbestos repair or removal work to be carried out;

(h) stop any registered asbestos contractor from executing any asbestos work which poses a health or safety risk to persons until such time that the risk has been appropriately mitigated;

(i) before any asbestos work commences on site, ensure that the registered asbestos contractor is registered and in good standing with the Compensation Fund or with a licensed compensation insurer as contemplated in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993); and

(j) where a fatality or permanent disabling injury occurs during asbestos work, report such fatality or injury to the Chief Director: Provincial Operations as contemplated in section 24 of the Act and in accordance with regulations 8 and 9 of the General Administrative Regulations, 2003.

(3) After completion of type 2 or type 3 asbestos work, the asbestos client must obtain an asbestos clearance certificate from the approved inspection authority.

Duties of registered asbestos contractor for asbestos work

12. (1) In the case of type 2 and type 3 asbestos work, the registered asbestos contractor must—

(a) undertake only the type of asbestos work for which they are registered by the chief inspector;

(b) appoint an occupational health and safety representative as contemplated in section 17 of the Act; and

(c) obtain a copy of an up-to-date inventory of asbestos in place from the asbestos client, prior to asbestos work taking place.

(2) Before commencement of any asbestos work and during such work, the registered asbestos contractor must ensure that—

(a) a risk assessment is performed that includes—

(i) identification of the hazards to which persons may be exposed;

(ii) an assessment of the risks related to the hazards based on a documented method; and

(iii) documented control measures to mitigate the risk;

(b) the risk assessment contemplated in subregulation (a) is reviewed—

(i) at regular documented intervals;

(ii) when an incident has occurred; and

(iii) when the scope of work changes; and

(c) an up-to-date copy of the risk assessment is made available at the relevant asbestos work site.

(3) The registered asbestos contractor must—

(a) ensure that the approved plan of work is submitted to the Chief Director: Provincial Operations at least seven days prior to commencement of asbestos work;

(b) appoint in writing an asbestos removal supervisor for each asbestos work site, who must ensure—

(i) occupational health and safety compliance on the asbestos removal site;

(ii) compliance with safe asbestos removal or repair procedures;

(iii) the correct use of personal protective equipment; and

(iv) proper decontamination and waste disposal;

(c) adhere to the repair or removal methodology and associated control measures provided in the plan of work approved for that specific asbestos work;

(d) ensure that the employee medical and training records are available on site for inspection and validation;

(e) ensure that at least the following information for every employee is recorded and kept for a minimum period of 50 years-

(i) Physical address of every asbestos work project; and

(ii) names and identification numbers of employees potentially exposed;

(f) before commencement of asbestos work, ensure that—

(i) an approved inspection authority has been appointed in writing by the asbestos client; and

(ii) the registered asbestos contractor is registered and in good standing with the Compensation Fund or with a licensed compensation insurer as contemplated in the Compensation for Occupational Injuries and Diseases Act, 1993; and

(g) where a fatality or permanent disabling injury occurs during asbestos work, ensure that a report about the fatality or injury is provided to the Chief Director: Provincial Operations as contemplated in section 24 of the Act, and in accordance with regulations 8 and 9 of the General Administrative Regulations, 2003, and that the report includes the measures that the contractor intends to implement to ensure safe asbestos work.

Duties of approved inspection authorities for asbestos work

13. An approved inspection authority involved in type 2 or type 3 asbestos work must—

(a) ensure that the appropriately registered asbestos contractor performs only type 2 or type 3 asbestos work, as the case may be;

(b) obtain a copy of an up-to-date inventory of asbestos in place from the asbestos client prior to asbestos work taking place;

(c) in consultation with the registered asbestos contractor, compile a plan of work in accordance with regulation 15;

(d) approve and submit the plan of work at least seven days prior to commencement of asbestos work to the Chief Director: Provincial Operations for acknowledgement;

(e) receive acknowledgement from the Chief Director: Provincial Operations within the seven-day period;

(f) confirm the employee medical certificate of fitness and asbestos training records for that asbestos work;

(g) provide guidance and site-specific instructions to the registered asbestos contractor on the approved plan of work;

(h) inspect adherence to the approved plan of work and requirements of these Regulations;

(i) stop any registered asbestos contractor from executing any asbestos work which poses a health or safety risk to persons until such time that the risk has been appropriately mitigated;

(j) perform planned asbestos air monitoring in accordance with regulation 16 and provide, as soon as is reasonably practicable, air monitoring results to the registered asbestos contractor and asbestos client;

(k) issue a written report, which includes findings and, where necessary, recommendations; and

(l) ensure that, upon completion of type 2 or type 3 asbestos work, clearance is performed as required in regulation 22.

Disputes

14. (1) The following provisions apply if uncertainty exists with regard to, or if a dispute arises concerning, the classification of type 1, 2 or 3 asbestos work under this regulation-

(a) The employer responsible for the work area where asbestos work is to be carried out must obtain the services of an approved inspection authority that must make a decision concerning the type of asbestos work; or

(b) the employer or self-employed person responsible for the work area where asbestos work is to be carried out must refer the dispute to the chief inspector, who must make a decision concerning the type of asbestos work;

(c) the employer or self-employed person responsible for the work area, who notifies the approved inspection authority or chief

inspector, must promptly inform other parties that such authority or inspector has been notified;

(d) the approved inspection authority or chief inspector must investigate the matter and give the parties a decision in writing within 30 days; and

(e) the asbestos work under dispute must cease until a decision under subregulation (2) is obtained.

(2) Should a dispute arise over the interpretation relating to matters in subregulation (1)*(a)*, the affected person may appeal against the interpretation to the chief inspector.

Plan of work

15. (1) A written approved plan of work, as contemplated in regulation 12(3), must include at least the following:

(a) Name, contact details and responsibilities of the registered asbestos contractor, approved inspection authority, asbestos waste transporter, asbestos waste disposal site and asbestos client, where applicable;

(b) name and contact details of the asbestos removal supervisor for the asbestos work site;

(c) details of the asbestos to be removed, including the location, type, estimated quantity and condition of the asbestos;

(d) a list of employees' names and identification numbers with verification of valid asbestos training and medical surveillance records for the asbestos work site;

(e) expected commencement and completion dates;

(f) air monitoring method used, and frequency of air monitoring, in accordance with regulation 16;

(g) details of how the asbestos removal work will take place, including methods of removal, tools and equipment, and the appropriate personal protective equipment to be used;

(h) details relating to the requirements of decontamination facilities and decontamination procedures;

(i) details of demarcation, labelling and signage requirements for regulated asbestos areas, asbestos waste and temporary on-site storage areas;

(j) procedure for decontamination of the work area, tools and equipment;

(k) emergency procedures in the event of uncontrolled asbestos release;

(l) method for disposal of asbestos waste;

(m) detail of asbestos clearance certification; and

(n) specific relevant prohibitions.

(2) The approved plan of work, as contemplated in regulation 12(3), must contain the signatures of—

(a) the asbestos client accepting the duties as contemplated in regulation 11(2) and (3);

(b) the registered asbestos contractor accepting the duties as contemplated in regulation 12; and

(c) the approved inspection authority for asbestos accepting the duties as contemplated in regulation 13.

Air monitoring

16. (1) In the case of type 2 and type 3 asbestos work, an asbestos client must ensure that air monitoring of the concentration of airborne regulated fibres to which an employee may be exposed, is—

(a) performed by an approved inspection authority;

(b) carried out in terms of HSG 248;

(c) representative of employee exposure; and

(d) carried out at a frequency determined by the approved inspection authority based on the site-specific asbestos risk assessment.

(2) The results of air monitoring obtained must be compared with the OEL or the OEL short-term exposure limit to ensure that no employee is exposed to asbestos in excess of the prescribed OELs.

(3) Environmental air monitoring must be performed by an approved inspection authority during type 2 and type 3 asbestos work.

(4) Air monitoring referred to in subregulations (1) and (3) must be carried out only after the relevant health and safety representative or relevant health and safety committee has been consulted and given a reasonable opportunity, as mutually agreed, to comment thereon.

Medical surveillance

17. (1) An employer must establish and maintain a system of medical surveillance of employees if—

(a) the employer is registered as an asbestos contractor;

(b) in the opinion of an occupational medicine practitioner, after consideration of the results of the asbestos risk assessment carried out in terms of regulation 5(5)*(d)*, it is reasonably likely that an asbestos-related disease may occur under the particular conditions of an employee's work; or

(c) an occupational medicine practitioner recommends that the relevant employee should be under medical surveillance.

(2) In order to comply with subregulation (1), an employer must appoint an occupational medicine practitioner to document the system of medical surveillance of employees, including—

(a) consideration of—

(i) the risk of developing occupational asbestos-related diseases; and

(ii) medical fitness to work requirements, including fitness to wearing a respirator;

(b) an initial health evaluation before commencement of asbestos work, which comprises—

(i) an evaluation of the employee's medical, occupational, exposure and social history;

(ii) an appropriate physical examination;

(iii) a chest radiograph; and

(iv) any other additional medical examination, such as pulmonary function testing, which, in the opinion of the occupational medicine practitioner, is necessary to enable

such practitioner to perform an appropriate health evaluation;

(c) periodic health evaluations conducted, considering medical tests contemplated in subregulation (2)*(b)*, at intervals determined by subregulations (2)*(a)* and 4*(b)*;

(d) the duties of an occupational health practitioner, conducted under the direction of the appointed occupational medicine practitioner; and

(e) making the documented system of medical surveillance available to the health and safety representative or health and safety committee, who is entitled to further clarification, if they so request.

(3) The appointed occupational medicine practitioner must notify the employer in writing of the outcomes of the health evaluation by issuing the certificate of medical surveillance, subject to the following:

(a) The information provided to the employer is limited to the presence of an occupational disease and the fitness of the employee to perform the inherent requirements of the job, and may not include confidential medical information;

(b) the employee is informed of the outcome of the health evaluation; and

(c) an employee is assessed to be temporarily medically unfit to perform work if there is a reasonable expectation that the employee's health will improve, and that such employee will be able to return to work.

(4) An employer may not permit an employee who was certified by an occupational medicine practitioner as medically unfit to work in a regulated asbestos area: Provided that the employee may return to perform that work after being certified fit by an occupational medical practitioner, and after—

(a) being informed of the results of the exposure assessments; and

(b) being prescribed medical tests in the frequency they should be repeated based on the risks.

(5) The certificate of medical surveillance, as contemplated in subregulation (3)—

(a) must be provided by the employer to the employee upon termination of employment; and

(b) may be used for subsequent asbestos work for the full duration of its validity period.

(6) The employer must record, investigate and report the occupational disease contemplated in subregulation (3)*(a)* in compliance with section 25 of the Act and regulation 8 of the General Administrative Regulations, 2003.

(7) An employer must ensure that the employee provides written informed consent for inclusion in the medical surveillance programme, which forms part of the medical surveillance record.

Regulated asbestos area

18. An employer or self-employed person undertaking type 1, type 2 or type 3 asbestos work must—

(a) clearly demarcate and identify the relevant area as a regulated asbestos area in accordance with regulation 20; and

(b) ensure that no person enters or remains in a regulated asbestos area unless he or she wears the appropriate type and correctly fitting respiratory protective equipment and protective clothing as contemplated in regulation 19.

Personal protective equipment and facilities

19. (1) An employer or self-employed person must—

(a) provide respiratory protective equipment and protective clothing suitable for protection against regulated asbestos fibres to all persons who may be exposed to asbestos;

(b) ensure that the respiratory protective equipment provides the appropriate level of protection for the type of asbestos work to be undertaken; and

(c) ensure that a person's exposure is adequately controlled as contemplated in regulation 9.

(2) Where respiratory protective equipment is provided, the employer or self-employed person must ensure that—

(a) the relevant equipment is capable of keeping the exposure level below the OEL for asbestos;

(b) the relevant equipment is correctly and properly used, stored and maintained;

(c) information, instruction, training and supervision that are necessary with regard to the use of the equipment are provided to the persons; and

(d) the equipment is kept in good condition and efficient working order.

(3) An employer or self-employed person must, as far as is reasonably practicable—

(a) issue no personal protective equipment to a person unless such equipment is cleaned, decontaminated and, where appropriate, sterilised;

(b) provide separate containers or storage facilities for personal protective equipment not in use; and

(c) ensure that all personal protective equipment not in use is stored only in the place provided.

(4) An employer or self-employed person must, as far as is reasonably practicable, ensure that all personal protective equipment contaminated with asbestos dust is thoroughly cleaned and handled in accordance with the following procedures-

(a) Where personal protective equipment is cleaned on the premises of the asbestos client, care must be taken to prevent contamination during handling, transport and cleaning; and

(b) water that is used for decontamination or cleaning of equipment must be filtered in accordance with regulation 9(3) before being released into any water system.

(5) Subject to subregulation (3)*(a)*, an employer or self-employed person must ensure that no person removes dirty or contaminated personal protective equipment from the workplace: Provided that where personal protective equipment contaminated with asbestos dust has to be disposed of, it must be treated as asbestos waste as contemplated in regulation 21.

(6) Subject to the Facilities Regulations, 2004, published as Government Notice R.924 in *Gazette* No. 26636 of 3 August 2004, the employer must—

(a) provide employees involved in type 1 and type 2 asbestos work with adequate washing facilities, which are readily accessible and located in an area where the facilities will not become contaminated, to enable employees to meet a standard of personal hygiene consistent with the adequate control of exposure, and to avoid the spread of asbestos dust;

(b) provide employees involved in type 3 asbestos work with a decontamination facility, in accordance with HSG 248, Chapter 9, which facility is readily accessible and located in an area where it will not become contaminated, to enable employees to meet a standard of personal hygiene consistent with the adequate control of exposure, and to avoid the spread of asbestos dust.

Labelling and signage

20. (1) All asbestos in place listed in the inventory of asbestos in place, as required by regulation 4, must be clearly and legibly identified using the pictogram specified in Annexure 1.

(2) All asbestos waste must be clearly labelled—

(a) using the label specified in Annexure 1;

(b) as far as is reasonably practicable, using clearly visible and a sufficient number of labels that would adequately serve as a warning of potential exposure; and

(c) ensuring that a container or vehicle in which asbestos is transported is clearly identified in accordance with the UN Transport of Dangerous Goods or UN Orange Book.

(2) Any asbestos-contaminated soil or land contaminated with asbestos waste must be clearly demarcated and signposted using the asbestos warning signage specified in Annexure 1.

(3) Any regulated asbestos area must be clearly demarcated using the pictograms and signs specified in Annexure 1.

Disposal of asbestos

21. An employer or self-employed person must, as far as is reasonably practicable, ensure that—

(a) all asbestos waste is placed in containers that will prevent exposure during handling;

(b) the premises, structure or area are thoroughly checked to ensure that all asbestos waste intended for disposal has been removed;

(c) all vehicles, reusable containers or any other similar articles, which have been in contact with asbestos waste, are cleaned and decontaminated after use in such a way that such vehicles, containers or similar articles do not cause a hazard inside or outside the workplace concerned;

(d) a document is obtained from the asbestos disposal site, contemplated in subregulation *(e)*, for all asbestos waste removed from the workplace; all asbestos waste is disposed of only on sites specifically designated for this purpose in terms of the Environment Conservation Act, 1989, and the National Environmental Management: Waste Act, 2008;

(e) all persons involved in the collection, transport and disposal of asbestos waste, who may be exposed to that waste, are provided with suitable personal protective equipment;

(f) the drivers of vehicles carrying asbestos waste are provided with written instructions on safety precautions and emergency procedures; and

(g) where the services of a contractor for the transport and disposal of asbestos waste are used, the contractor complies with the provisions of these Regulations.

Asbestos clearance certificate

22. Following the completion of type 2 or type 3 asbestos work, an approved inspection authority must—

(a) conduct a thorough visual inspection of the relevant work area;

(b) conduct air sampling to ensure compliance with the clearance indicator;

(c) ensure that all asbestos waste has been removed in accordance with the requirements of regulation 21; and

(d) issue a written declaration for the purpose of clearance certification.

Records

23. An employer must—

(a) keep records of all inventories of asbestos in place, asbestos risk assessments, air monitoring results, medical surveillance reports, disposal certificates and clearance certificates as required by regulations 4, 5, 16, 17, 21*(d)* and 22*(d)*, respectively: Provided that personal medical records may be made available to only an occupational health practitioner;

(b) subject to subregulation *(c)*, make the records contemplated in subregulation *(a)*, excluding personal medical records, available for inspection by an inspector;

(c) allow any person, subject to formal written consent by an employee, to peruse the records with respect to that particular employee;

(d) make the records of all assessments, surveys and air monitoring results, and the asbestos inventory, available for perusal by the relevant health and safety representative or relevant health and safety committee;

(e) keep all records contemplated in subregulation *(a)* for a minimum period of 50 years;

(f) hand over or forward by registered post all records contemplated in subregulation *(a)* to the relevant Chief Director: Provincial Operations, if the employer ceases activities relating to asbestos work;

(g) keep a record of training given to an employee in terms of regulation 7 for as long as the employee remains employed at the workplace where the employee is potentially exposed to asbestos.

Prohibition

24. No person may—

(a) sell, donate, reuse, reinstall or recycle any asbestos or asbestos-containing materials;

(b) clean or prepare surfaces of asbestos cement materials;

(c) temporarily store any asbestos or asbestos-containing materials for longer than three months after completion of asbestos removal work, before final disposal;

(d) temporarily store asbestos-containing materials destined for disposal, which are uncovered or unprotected or stored in a manner that may contaminate ground or water systems or may cause the release of asbestos dust;

(e) use compressed air or permit the use of compressed air to remove asbestos dust from any surface or person;

(f) use electrical power tools, such as angle grinders, or any other fast-moving equipment to cut, grind or drill asbestos-containing material;

(g) smoke, eat, drink or keep food or beverages in a regulated asbestos area or require or permit any other person to smoke, eat, drink or keep food or beverages in such area;

(h) vacuum asbestos dust using vacuum cleaning equipment other than vacuum cleaning equipment with a filtration efficiency of at least 99 per cent for particles one micrometre in size; or

(i) carry out any demolition work before all asbestos and asbestos-containing building material has been identified in the inventory of asbestos in place, safely removed or otherwise controlled, as far as is

reasonably practicable, so as to eliminate the uncontrolled release of asbestos and asbestos dust.

Offences and penalties

25. Any person who contravenes or fails to comply with any provision of regulation 3 up to and including regulation 24 is guilty of an offence and upon conviction liable to a fine or to imprisonment for a period not exceeding 12 months and, in the case of a continuous offence, to an additional fine of R500,00 for each day on which the offence continues or to additional imprisonment of one day for each day on which the offence continues: Provided that the period of such additional imprisonment must in no case exceed 90 days.

Repeal of regulations

26. (1) The Asbestos Regulations, 2001, published as Government Notice R.155 in *Gazette* No. 23108 of 10 February 2002, are hereby repealed.

Short title

27. (1) These Regulations are called the Asbestos Abatement Regulations, 2020, and come into operation on the date of publication thereof in the *Gazette*.

(2) Regulation 3 and regulation 20 will come into effect 18 months after the promulgation of these Regulations.

ANNEXURE 1

Asbestos warning labels and signs

1.1 Asbestos warning sign

1.2 Asbestos warning labels

ASBESTOS

DANGER

MAY CAUSE CANCER THROUGH INHALATION

CAUSES SKIN IRRITATION

Do not handle until all precautions described in the Asbestos Regulations and Safety Data Sheet have been read and understood. Do not breathe asbestos dust. Wear the correct type of respirator that fits properly. When showering, take off the disposable gloves and your overall before removing the respirator. Dispose of asbestos waste in line with the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).