

ASBESTOS MANAGEMENT PLAN FOR NON-RESIDENTIAL BUILDINGS

INTRODUCTION

Access Canberra has scheduled an ongoing programmed inspection campaign to assess and improve compliance with the ACT's Dangerous Substances legislation regarding the requirement for Asbestos Management Plans for non-residential buildings.

Laws regulating the management of asbestos were changed in September 2007 for non-residential buildings or commercial properties in the ACT built before 31 December 2003. The laws affect anyone who owns a building or who makes decisions about a building's management, for example an occupier or property manager. The laws require a report from a Licensed Asbestos Assessor, identifying the location and condition of any asbestos in the building and the preparation and implementation of a written Asbestos Management Plan.

An Asbestos Management Plan is required under Section 325 (1) of the Dangerous Substance (General) Regulation 2004. The Asbestos Management Plan must include an Asbestos Register that must be made available to tenants, workers, contractors or any other relevant people. The register must include a timetable to introduce control measures and a procedure for review. The review must take place at least every five years.

Please note that should any control measures include the removal of asbestos, this is building work and unless exempt, will require a building approval and must be carried out by a licensed asbestos removalist.

WHAT IS THE MEANING OF NON-RESIDENTIAL PREMISES?

Section 324 of the Dangerous Substance (General) Regulation 2004 defines a Non-residential premises as a –

- (a) commercial premises; or
- (b) industrial premises; or
- (c) community or recreation premises

WHO IS PERSON IN CONTROL FOR PREMISES?

Section 17 of the Dangerous Substance Act 2004 defines a person in control of premises as:

- a. for the handling of a dangerous substance—anyone who has control of the handling of the substance (including anyone with authority to make decisions about the handling of the substance); or
- b. for premises—anyone who has control of the premises (including anyone with authority to make decisions about the management of the premises); or
- c. for plant or a system for handling a dangerous substance, anyone who has control of the plant or system or the operation of the plant or system (including anyone with authority to make decisions about the plant or system or the operation of the plant or system); or
- d. for the design, manufacture, import or supply of plant or a system for handling a dangerous substance—anyone who has control of the design, manufacture, import or supply of the plant or system (including anyone with authority to make decisions about the design, manufacture, import or supply).

More than 1 person may be a person in control for a duty under this Act.

Responsibility of the Occupant / tenant:

Provide the following information to Authorised Person / Access Canberra Inspector when they visit your premises:

- > Your business details include Trading / Business Name, Address, Registered Company Name, ABN/ ACN number and Person in control of business or undertaking
- > A copy of the Asbestos Management Plan / Hazardous survey for Asbestos or Risk Register for
- > Asbestos management (Normally supplied by the Property Owner / landlord or Property Manger)
- > Contact details (Name, Address, Email address, Fax number Phone number or Mobile) of the Property Owner / landlord or Property Manager and your business
- > After the first visit from Access Canberra if the tenant has received a copy of the Asbestos Management Plan from the Property Owner / landlord or Property Manger than tenant must inform Access Canberra / Authorised person / Inspector about same.

Responsibility of the Property Manager:

Provide the following information to Access Canberra;

- > Your business details including Trading / Business Name, Address, Registered Company Name, ABN/ ACN number and detail of the Person in control of business or undertaking
- > Contact details (Name, Address, Email address, Fax number Phone number or Mobile) of the Property Owner / landlord
- > Pass on this Guidance Note and any other relevant information to the Property Owner / landlord about the Asbestos Management Plan requirement
- > Keep proof about you send information materials to Property Owner / landlord about Asbestos Management Plan requirements
- > If Property Owner / landlord agree then arrange Licensed Asbestos Assessor for assessment for particular premises
- > If you have copy of the Asbestos Management Plan for the particular premises then providing a copy to each tenant (if more than one tenant)
- > After first visit from Access Canberra if the Property Manager has received a copy of the Asbestos Management Plan then they must inform Access Canberra / Authorised Person / Inspector about same and distribute copy of the plan to each tenant.

Responsibility of the Property Owner / landlord of the Premises:

You must provide the following information to Access Canberra:

- > Your business details including the Trading / Business Name, Address, Registered Company Name, ABN/ACN number and Person in control of business or undertaking;
- > Your full name / the home address and other information requested by Authorised Person / Inspectors; and
- > Provide copy of Asbestos Management Plan for the particular premises

PENALTY

Dangerous Substances (General) Regulation 2004:

Section 325 Asbestos management plan

- (1) A person in control of non-residential premises must have a plan (an asbestos management plan) for the premises.
Maximum penalty: 30 penalty units. An offence against subsection (1) is a strict liability offence.

Section 326 Asbestos management plan—review

- (1) A person in control of non-residential premises must review the asbestos management plan for the premises if—
 - (a) an asbestos product at the premises has been disturbed or removed; or
 - (b) a review of the asbestos register under section 329 indicates the need for the review; or
 - (c) a review of a risk assessment under section 334 indicates the need for the review; or
 - (d) a review is required under section 335 (Asbestos—atmospheric monitoring); or
 - (e) there has been a significant change in the premises: or
 - (f) there is any other evidence of which the person is, or should be, aware that the plan is no longer adequate for managing asbestos products at the premises.

Maximum penalty: 30 penalty units. An offence against this section is a strict liability offence.

- (2) A person in control of non-residential premises must also ensure that the asbestos management plan for the premises is reviewed not later than—
 - (a) 5 years after the day it was made; or
 - (b) if the plan has been reviewed after it was made (whether under this section or otherwise)—5 years after the day the last review finished.

Maximum penalty: 30 penalty units. An offence against this section is a strict liability offence.

Legislation Act 2001

Section 133 Penalty units

- (1) In a law, if a penalty for an offence is expressed as a number (whether whole or fractional) of penalty units, the penalty for the offence is a fine of that number of penalty units.
- (2) A penalty unit is—
 - (a) for an offence committed by an individual—\$110; or
 - (b) for an offence committed by a corporation—\$550.

WHAT WILL HAPPEN NEXT?

- > The Property Owner / landlord may be contacted by Access Canberra about Asbestos Management Plan requirement for the particular premises
- > An Improvement Notices may issue to the Property Owner / landlord
- > It is the Property Owner / Landlord's responsibility to provide copy of the Asbestos Management plan to each tenant / or Property Manager for distribution.

LEGISLATION

The *Dangerous Substances Act 2004* and *Dangerous Substance (General) Regulation 2004* is located on the ACT government legislation website www.legislation.act.gov.au/a/2004-7/default.asp

OTHER INFORMATION:

General information regarding asbestos law is available online at www.accesscanberra.act.gov.au

A list of Active licensed Asbestos Assessors is available from the Access Canberra website.