

GUIDANCE NOTE

April 2019

Working Safely with Asbestos Containing Materials

OVERVIEW

In February 2019, the ACT Government announced amendments to the *Work Health and Safety Regulation 2011* to mandate that people in occupations that are likely to work with asbestos-containing materials (ACMs) must complete an approved training course in working safely with asbestos.

The expanded course requirements supports workers not involved in asbestos removal but may disturb asbestos as part of minor or routine work, such as drilling into a wall to install a cable. Increasing the level of training of workers in certain occupations will raise their work health and safety competency, and that of the industries they work in generally.

Persons in an occupation specified in the list below are required to complete the training:

- 334112 – Air-conditioning and Mechanical Services Plumber
- 342111 – Air-conditioning and Refrigeration Mechanic
- 342411 – Cabler (Data and Telecommunications)
- 899914 – Electrical or Telecommunications Trades Assistant
- 341111 – Electrician (General)
- 341112 – Electrician (Special Class)
- 334114 – Gasfitter
- 334111 – Plumber (General)
- 821114 – Plumber's Assistant
- 342414 – Telecommunications Technician

Licensed asbestos removalists and licensed asbestos assessors are not affected by the amendments and are exempt from completing the training.

The amendment commenced on 1 July 2019.

POLICY OBJECTIVES

The objectives of the amendments were to:

- provide enhanced protection for workers who may be required to carry out minor or routine maintenance work or other minor work on ACMs for a PCBU by providing mandatory training;
- ensure workers that are likely to be required to perform this work are trained in how to do so safely;
- ensure best practice management of asbestos in the workplace;
- reduce workers' exposure to asbestos fibres; and
- in the longer term, reduce the incidence of asbestos related diseases.

Asbestos is an ongoing risk to the community, and in particular, the health and safety of workers. ACMs are present in a substantial proportion of buildings in the ACT, both commercial and residential, due to widespread use prior to the imposition of a ban in 2003.

EXEMPTIONS

The Regulations provide that the Regulator may exempt a person or class of persons from completing the mandated course (Division 11.2.4 of the Regulation). In deciding whether or not to grant an exemption the Regulator must have regard to all relevant matters, including the following:

- a. whether the granting of the exemption will result in a standard of health and safety at the relevant workplace, or in relation to the relevant undertaking, that is at least equivalent to the standard that would be achieved by compliance with the relevant provision or provisions;
- b. whether the requirements of (a) above will be met if the Regulator imposes certain conditions in granting the exemption and those conditions are complied with;
- c. whether exceptional circumstances justify the grant of the exemption;
- d. if the proposed exemption relates to a particular thing – whether the Regulator is satisfied that the risk associated with the thing is not significant if the exemption is granted; and
- e. whether the applicant has carried out consultation in relation to the proposed exemption in accordance with the Act, Division 5.1 and 5.2 (consultation between duty holders and with workers).

In applying the above requirements and in keeping with the objectives of the law, WorkSafe ACT considers that applications for exemption that are based on financial costs of training or lost business time; workload commitments; preliminary assessment of worksites for the presence of ACM; occasional or periodic work in the ACT; are unlikely to be successful.

PCBUs have the option of passing on any costs associated with attending the training on to customers resulting in higher costs of services.

HOW TO SEEK AN EXEMPTION

An application must be in writing and clearly set out the reasons sought for the exemption.

The Regulator may impose any conditions it considers appropriate on an exemption granted. All approved exemptions that relate to a class of persons must be notified on the ACT Legislation Register which makes publicly accessible details of the applicant, an outline of the exemption and any conditions applying to it.

If the Regulator decides to refuse to grant an exemption, a written notice setting out the reasons for the decision will be provided to the applicant within 14 days after making the decision.

REVIEWABLE DECISION

A decision to refuse to grant an exemption is a reviewable decision. For further information on how to seek an [internal or external review of decisions](#), please visit our website.

TRAINING FUND AUTHORITY

If a training course participant meets Training Fund Authority requirements, a financial rebate towards the cost of the mandated training may be available – see www.trainingfund.com.au for more information.

FURTHER INFORMATION

Visit our [Working Safely with Asbestos Containing Material](#) webpage for more information, email worksafe@act.gov.au

If you wish to discuss your individual circumstances, please forward us an e-mail outlining your particulars, along with a contact person, and we will be in touch as soon as possible.