



## **CONTRACTORS & WORK INVOLVING ASBESTOS**

This document aims to provide some brief background information on contractors involved in the asbestos industry in New Zealand. It will cover the types of contractors in the industry along with the duties that these contractors must obey under the *Health and Safety at Work (Asbestos) Regulations* (2016) (the Asbestos Regulations).

The Asbestos Regulations also stipulate obligations that a Person Conducting Business or Undertaking (PCBU) in charge of a workplace (a workplace PCBU) must comply with when choosing contractors to perform work involving asbestos.

### **WHAT IS WORK INVOLVING ASBESTOS?**

Work involving asbestos is a general term which covers both asbestos removalist and asbestos-related work. Asbestos removalist work is specific for work that involves removing asbestos from buildings, while asbestos-related work does *not* consist of asbestos removalist work but does involve all other types of work with asbestos. Examples of asbestos-related work include sampling and identification of asbestos containing materials (ACMs), maintenance and servicing work on ACMs, and ACM transport and disposal.

### **TYPES OF CONTRACTORS FOR WORK INVOLVING ASBESTOS IN BUILDINGS**

Work involving asbestos in buildings generally consists of identifying ACMs (asbestos survey), removing ACMs (asbestos removal), and performing a final inspection after removal (clearance inspection). Air monitoring during asbestos removalist work or as part of the clearance inspection may also occur.

Asbestos surveyors are contractors that conduct surveys to determine if any materials in a building contain asbestos. They may also take bulk material samples to be analysed by an analytical laboratory to determine if asbestos is present within a material.

Asbestos removalists are engaged to remove ACMs from a building.

Asbestos assessors perform clearance inspections after asbestos removalist work has been completed in order to ensure that asbestos removal and decontamination works were thoroughly completed. These contractors will perform a visual inspection and may collect dust samples or conduct air monitoring.

Asbestos assessors are also able to carry out air monitoring during asbestos removalist works to ensure that the airborne contamination standard of respirable fibres in air is not exceeded.



## **DUTIES TO EXPECT FROM ASBESTOS SURVEYORS**

For asbestos surveys aimed at locating any ACMs in a building (i.e. management surveys), the Asbestos Regulations do not state any requirements for surveyors. If confident in their abilities, a PCBU or person in the PCBU's company can conduct this type of survey themselves. However, it is recommended by WorkSafe that a competent asbestos surveyor is engaged to perform this work if there is no one available in a company with the necessary skills and experience.

For asbestos surveys that are aimed at locating any ACMs in a building in order for the building or part of the building to be refurbished or demolished (i.e. refurbishment and demolition surveys), the Asbestos Regulations state that the surveyor must be competent.

Competency is defined by the Asbestos Regulations and WorkSafe as having the necessary skills, experience and qualifications to carry out the task at hand. As of March 2018, WorkSafe has not specified a New Zealand-based training course or qualification for asbestos surveyors.

Where bulk material samples are taken to identify any asbestos within a material, the Asbestos Regulations require the samples to be analysed by an accredited laboratory. Please refer to WorkSafe's website for more information on accredited laboratories.

## **DUTIES TO EXPECT FROM ASBESTOS REMOVALIST CONTRACTORS**

Asbestos removalist contractors must hold current licenses in order to perform asbestos removalist work, except where the below criteria are met.

### *Work Where No Asbestos Removalist License is Needed*

The only circumstances where no asbestos removalist license is required is when the asbestos or ACM being removed is:

- non-friable;
- less than 10m<sup>2</sup> over the course of the entire project;
- asbestos containing dust associated with the removal of less than 10m<sup>2</sup> of non-friable asbestos;
- asbestos containing dust that is only a minor contamination and is not associated with the removal of friable or 10m<sup>2</sup> or more of non-friable asbestos.

All other asbestos removalist work requires a licensed asbestos removalist contractor. Please refer to WorkSafe's website for a list of current licensed asbestos removalists.



### *Duty for Asbestos Removalists to be Licensed*

There are two types of licenses that a contractor can hold and they are categorised by the type of asbestos involved. The first is a Class A asbestos removalist license. When a removalist holds this type of license they are able to remove any quantity of friable asbestos or ACMs, any quantity of non-friable asbestos or ACMs and any amount of asbestos containing dust (ACD).

The second type of license an asbestos removalist can hold is a Class B license. This type of license allows for the removalist to remove any amount of non-friable asbestos or ACM and any dust that is associated with non-friable asbestos or ACMs.

### *Other Duties to Expect from Asbestos Removalist Contractors*

Licensed asbestos removalists must prepare an asbestos removal control plan which includes details of the asbestos to be removed, how the asbestos will be removed, how the removal area is set up including air monitoring points, and details of transport and disposal of the asbestos waste. A copy of the asbestos removal control plan must be provided to the person who commissioned the asbestos removalist work, the workers at the workplace or their representatives and the occupants of the home if the workplace is a home. This plan must be available for access by any of the above parties for two years, unless a Notifiable Incident occurs in which the asbestos removal control plan must be made available for five years.

It is the duty of the licensed asbestos removalist to notify WorkSafe of asbestos removal work at least five days prior to the work commencing. Workers conducting asbestos removalist work under licensed asbestos removers must have adequate training and understand the health risks involved with the work. Signs must be placed in adequate locations warning bystanders of asbestos removal work.

There are many other legal requirements for asbestos removalist contractors listed in the Asbestos Regulations. For more information on this type of work please refer to WorkSafe's website or directly to the Asbestos Regulations.

## **DUTIES TO EXPECT FROM ASBESTOS ASSESSORS**

Until 4 April 2018, clearance inspections and air monitoring may be undertaken by either a licensed asbestos assessor or a competent person for any type of asbestos removalist work. However after 4 April 2018, when Class A asbestos removalist work has been undertaken, a licensed asbestos assessor must perform the clearance inspection and any air monitoring. For all other types of asbestos removalist work, a competent person may undertake the air monitoring and clearance inspection.



Please refer to WorkSafe's website for a list of current licensed asbestos assessors.

The Asbestos Regulations define a competent person as a person who has acquired, through training and experience, the knowledge and skills of relevant asbestos removal industry practice and who holds:

- a certificate in relation to a training course specified by WorkSafe for asbestos assessor work (refer to WorkSafe's website for training course recommendations); *or*
- a tertiary qualification in occupational health and safety, occupational hygiene, science, or environmental health.

#### *Duties in Relation to Clearance Inspections*

Contractors performing clearance inspections must be independent, i.e. free from any conflicts of interest in relation to the job they are providing clearance for.

Clearance inspections must occur after all licensed asbestos removalist work.

When Class A asbestos removalist work was performed, the clearance inspection will usually include surface testing for asbestos containing dust and air monitoring. Surface testing and air monitoring may occur during the clearance inspection of Class B asbestos removalist work if the visual inspection suggests that these tests are necessary.

A clearance certificate must be obtained prior to the workplace being reoccupied.

The clearance certificate must only be issued if the inspection shows that the asbestos removalist area along with surrounding areas are free from asbestos and that the asbestos removalist area does not pose a risk to health and safety from asbestos upon reoccupation. If air monitoring was conducted, the clearance certificate must only be issued if respirable fibres were detected at or below trace level. It must be explicitly stated on the clearance certificate that all of the above criteria have been satisfied. The address of the building along with the location of the asbestos removal works must be stated on the clearance certificate.

#### *Duties in Relation to Air Monitoring During Asbestos Removalist Work*

When Class A asbestos removalist work is undertaken, the asbestos assessor must conduct air monitoring during the asbestos removalist works. This must be undertaken prior to dismantling the enclosure surrounding the asbestos removalist work. Additionally, if the asbestos assessor believes that background levels are likely above trace levels, air monitoring must be taken prior to asbestos removalist works commencing.



## **PCBU DUTIES IN RELATION TO HIRING CONTRACTORS FOR WORK INVOLVING ASBESTOS**

The workplace PCBU holds many duties in relation to the contractors hired to perform work involving asbestos.

### *Duty to Identify and Locate All Asbestos and ACMs*

It is the duty of the workplace PCBU to locate and identify all asbestos in the workplace. This can be performed by an asbestos surveyor or as described above, a person at the workplace that holds the necessary skills and experience.

However, the workplace PCBU must ensure that contractors conducting asbestos surveys aimed at locating and identifying all asbestos prior to refurbishment and/or demolition (i.e. refurbishment and demolition surveys) are competent.

### *Duties in Relation to Asbestos Removalist Works*

Prior to asbestos removalist works commencing, the workplace PCBU must inform certain persons of upcoming asbestos removalist works. This must include details of the asbestos removalist works including the expected timeline of the works. The people that the workplace PCBU must inform of such information are:

- the workers and any other persons at the workplace;
- the person who commissioned the asbestos removalist works if this person is not the workplace PCBU;
- as far as is reasonably practicable, any PCBUs and occupiers of buildings in the immediate vicinity of the workplace where asbestos removalist works will occur.

It is also the duty of the workplace PCBU to ensure that asbestos removalist work is conducted by appropriately licensed contractors. The only circumstances where licensed asbestos removalists are not required is listed above under “*work where no asbestos removalist license is needed*”.

The workplace PCBU must ensure that access to the asbestos removal area is restricted to only allow entry to contractors associated with asbestos removalist works. The workplace PCBU can deny access to the asbestos removal area if a person attempting to gain access does not comply with the direction of the licensed asbestos removalist or with a control measure aimed at limiting exposure to asbestos.



*Duty to Receive a Clearance Certificate After Asbestos Removalist Works*

The workplace PCBU that ordered asbestos removalist work must ensure that the building is not reoccupied prior to receiving a clearance certificate. The clearance certificate must be issued by an appropriate contractor as described above under “*duties in relation to clearance inspections*”.

*Duty to Ensure Air Monitoring of the Asbestos Removalist Area*

It is the duty of the PCBU that commissions asbestos removalist work to ensure that air monitoring of the asbestos removal area is undertaken. Air monitoring must be undertaken by an appropriate contractor as described above under “*duties in relation to air monitoring during asbestos removalist work*”.

The workplace PCBU must ensure that copies of the air monitoring results are available to:

- workers at the workplace and their representatives;
- other PCBUs at the workplace;
- other persons at the workplace;
- so far as is reasonably practicable, other persons living or working in the vicinity of the workplace if it is likely that they may be affected by asbestos contamination;
- if the workplace is a home, the occupiers and owner of the home.