Mines Safety and Inspection Act 1994

Mines Safety and Inspection Amendment Regulations 2004

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

1. **Citation**

These regulations may be cited as the *Mines Safety and Inspection Amendment Regulations 2004*.

2. **The regulations amended**

The amendments in these regulations are to the *Mines Safety and Inspection Regulations 1995*. [*Reprinted as at 5 April 2002. For amendments to 9 January 2004 see Western Australian Legislation Information Tables for 2002, Table 4, p. 245, and Gazette 27 June 2003.*]

3. **Regulation 9.32A inserted**

After regulation 9.32 the following regulation is inserted —

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9.32A. Asbestos not to be used

(1) Subject to subregulations (2) to (11) the principal employer and each employer at a mine must ensure that asbestos is not used at the mine.

(2) Subregulation (1) does not apply in relation to the use of asbestos if —

(a) the use that is made of the asbestos is the same as it was immediately before the day upon which these regulations come into operation; and

(b) the asbestos has not been moved since that time.
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(3) Subregulation (1) does not apply in relation to the use of asbestos in a vehicle or other plant if—
(a) the use that is made of the asbestos in the vehicle or plant is the same as it was immediately before the day upon which these regulations come into operation; and
(b) the asbestos has not been moved from its location within the vehicle or plant since that time.

(4) Subregulation (1) does not apply in relation to the use of asbestos—
(a) for systematic investigations for the primary purpose of adding to general knowledge, including the carrying out of an experiment; or
(b) for the display in a museum or educational display of any thing manufactured in whole or in part from chrysotile (white asbestos), including work necessary to prepare and maintain the display.

(5) Subregulation (1) does not apply in relation to the storage of—
(a) a compressed asbestos fibre gasket consisting of or containing chrysotile for use in a plant in contact with saturated steam, superheated steam or a dangerous substance;
(b) a diaphragm consisting of or containing chrysotile for use in an electrolyte cell in an electrolysis plant for chlor-alkali manufacture;
(c) a split face seal of at least 150 mm in diameter, consisting of or containing a mixture of chrysotile and a phenol formaldehyde resin or a cresylic formaldehyde resin;
(d) a vane for a rotary vacuum pump or a rotary compressor consisting of or containing a mixture of chrysotile and a phenol formaldehyde resin or a cresylic formaldehyde resin; or
(e) a thing the subject of an exemption under Schedule 1B of the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994 of the Commonwealth,
or to work necessary to make ready one of those things for use after such storage.

(6) Subregulation (1) does not apply—
(a) before 1 January 2005, in relation to the use of a compressed asbestos fibre gasket consisting of or containing chrysotile that is used as a
gasket in a process where it comes into contact with saturated steam, superheated steam or a dangerous substance; or

(b) on and from 1 January 2005, in relation to the use of the gasket if—

(i) the use of the gasket and the asbestos in the gasket are the same as they were immediately before 1 January 2005; and

(ii) the gasket has not been moved from its location within the plant since immediately before 1 January 2005.

(7) Subregulation (1) does not apply —

(a) before 1 January 2007, in relation to the use of a compressed asbestos fibre gasket consisting of or containing chrysotile that is used as a gasket in a plant in liquid chlorine service; or

(b) on and from 1 January 2007, in relation to the use of the gasket if—

(i) the use of the gasket and the asbestos in the gasket are the same as they were immediately before 1 January 2007; and

(ii) the gasket has not been moved from its location within the plant since immediately before 1 January 2007.

(8) Subregulation (1) does not apply —

(a) before 1 January 2007, in relation to the use of a diaphragm consisting of or containing chrysotile that is used as a diaphragm in an electrolyte cell in an electrolysis plant for chlor-alkali manufacture that existed immediately before the day upon which these regulations come into operation; or

(b) on and from 1 January 2007, in relation to the use of the diaphragm if—

(i) the use of the diaphragm and the asbestos in the diaphragm are the same as they were immediately before 1 January 2007; and

(ii) the diaphragm has not been moved from its location within the plant since immediately before 1 January 2007.

(9) Subregulation (1) does not apply —

(a) before 1 January 2008, in relation to the use of a split face seal of at least 150 mm in diameter, consisting of or containing a mixture of chrysotile and a phenol formaldehyde resin or a cresylic formaldehyde resin, that is used as a
seal to prevent leakage of water from a cooling water pump in a fossil fuel powered electricity generating station; or

(b) on and from 1 January 2008, in relation to the use of the seal if—

(i) the use of the seal and the asbestos in the seal are the same as they were immediately before 1 January 2008; and

(ii) the seal has not been moved from its location within the pump since immediately before 1 January 2008.

(10) Subregulation (1) does not apply —

(a) before 1 January 2008, in relation to the use of a vane consisting of or containing a mixture of chrysotile and a phenol formaldehyde resin or a cresylic formaldehyde resin that is used as a vane for a rotary vacuum pump or a rotary compressor; or

(b) on and from 1 January 2008, in relation to the use of the vane if—

(i) the use of the vane and the asbestos in the vane are the same as they were immediately before 1 January 2008; and

(ii) the vane has not been moved from its location within the pump or compressor since immediately before 1 January 2008.

(11) Subregulation (1) does not apply —

(a) before 1 January 2008, in relation to the use in plant of a thing consisting of or containing chrysotile that is the subject of an exemption under Schedule 1B of the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994 of the Commonwealth; or

(b) on and from 1 January 2008, in relation to the use of the thing if—

(i) the use of the thing and the asbestos in the thing are the same as they were immediately before 1 January 2008; and

(ii) the thing has not been moved from its location within the plant since immediately before 1 January 2008.
(12) In this regulation —

“dangerous substance” has the meaning given to the term “dangerous goods” in section 3 of the Dangerous Goods (Transport) Act 1998, or in any provision that on the repeal of that section corresponds to that definition;

“use” includes cleaning, maintaining, processing, producing and treating, but does not include removal and disposal of asbestos from the mine.

By Command of the Lieutenant-Governor and deputy of the Governor,

ROD SPENCER, Clerk of the Executive Council.