

HE302

HEALTH ACT 1911  
HEALTH (ASBESTOS) REGULATIONS 1992

Made by the Lieutenant-Governor, and Deputy of the Governor in Executive Council under sections 134 (53), 199 (21) and 343 (5) of the *Health Act 1911*.

## PART 1 — PRELIMINARY

## Citation

1. These regulations may be cited as the *Health (Asbestos) Regulations 1992*.

## Interpretation

2. In these regulations, unless the contrary intention appears —

“asbestos” means the asbestiform variety of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals and includes actinolite, amosite, anthophyllite, chrysotile, crocidolite, tremolite, and any mixture containing 2 or more of those;

“asbestos cement sheet” means a sheet or part of a sheet, whether flat or corrugated, containing asbestos in a cement binder;

“authorized person” means an environmental health officer or a person authorized under regulation 5;

“material containing asbestos” means material in which —

- (a) fibrous material is able to be detected by stereoscopic light microscopy at a magnification of not less than 10 times and not greater than 40 times; and
- (b) the fibrous material is able to be identified as asbestos by polarised light microscopy at a magnification of not greater than 400 times or by a method approved by the Executive Director, Public Health.

## Application

3. (1) Subject to subregulation (2) these regulations have effect in all districts.

(2) These regulations do not apply to or in relation to any place that is a mine, petroleum well, or petroleum pipeline to which the *Mining Act 1978*, the *Mines Regulation Act 1946*, the *Coal Mines Regulation Act 1946*, the *Petroleum Act 1967*, the *Petroleum (Submerged Lands) Act 1982* or the *Petroleum Pipelines Act 1969*, applies.

## Asbestos declared hazardous

4. Asbestos is declared to be a hazardous substance.

## Authorized persons

5. The Executive Director, Public Health may authorize a person in writing to be an authorized person for the purposes of these regulations.

## PART 2 — ASBESTOS CEMENT SHEET

## Sale or supply of asbestos cement sheet

6. A person who sells or supplies asbestos cement sheet to another commits an offence, except when —

- (a) that person has the prior written approval of the Executive Director, Public Health and does so in accordance with that approval;
- (b) the supply of the asbestos cement sheet to another was for the purpose of having that other person dispose of it in accordance with these regulations;
- (c) the asbestos cement sheet formed part of a fixture on land that was sold or supplied; or
- (d) the asbestos cement sheet formed part of a structure designed to be movable that was sold or supplied without substantially dismantling it.

## Use of asbestos cement sheet

7. (1) Subject to subregulation (2), a person who uses any asbestos cement sheet commits an offence, except —

- (a) where the person is maintaining, repairing, removing or disposing of the asbestos cement sheet; or
- (b) when that person has the prior written approval of the Executive Director, Public Health and does so in accordance with that approval.

(2) Subregulation (1) does not apply to the use of asbestos cement sheet where —

- (a) the asbestos cement sheet was in use as part of a structure (which term includes a fence) when these regulations came into operation; and
- (b) the use of the asbestos cement sheet as part of that structure has continued since these regulations came into operation.

(3) A person who stores, breaks, damages, maintains, repairs, removes, moves, or disposes of, or uses any asbestos cement sheet without taking reasonable measures to prevent asbestos fibres entering the atmosphere commits an offence.

(4) For the purposes of subregulation (3), "reasonable measures" includes —

- (a) using water or other practical measures to keep airborne material containing asbestos to a minimum;
- (b) not using any tools other than non-powered hand tools or portable power tools that incorporate dust suppression or dust extraction attachments designed to collect asbestos fibres;
- (c) using only vacuum cleaning equipment designed to collect asbestos fibres or wetting the area before sweeping up material containing asbestos;
- (d) not using compressed air, or a high pressure water jet, when working with material containing asbestos;
- (e) handling asbestos cement sheet in such a manner as to minimise its breakage or abrasion;
- (f) ensuring that waste material containing asbestos is disposed of in accordance with these regulations as soon as practicable.

## PART 3 — MATERIAL CONTAINING ASBESTOS

## Directions by authorized persons

8. (1) An authorized person may, by a written notice served on —
- (a) the owner of material containing asbestos; or
  - (b) the owner or occupier of premises on which material containing asbestos is present; or
  - (c) a person handling material containing asbestos,

direct that person to maintain, repair, remove, move, dispose of, or handle the material containing asbestos in such manner and within such time as is specified in the direction.

(2) The power conferred by subregulation (1) to direct a person to maintain, repair, remove, move, dispose of, or handle material containing asbestos includes power to direct that person to do any two or more of those things in combination.

(3) A person who is served with a notice under subregulation (1) may, within 28 days of the service of the notice, appeal in writing against the notice to the Executive Director, Public Health who may uphold, revoke, or amend the notice.

(4) A person who fails to comply with a direction in a notice under subregulation (1) commits an offence.

## Executive Director may prohibit or restrict use, sale or supply of material containing asbestos

9. (1) The Executive Director, Public Health may, by notice published in a newspaper circulating in the State —
- (a) prohibit; or
  - (b) impose conditions or restrictions on,

the use, sale, or supply of material containing asbestos.

(2) A person aggrieved by a notice made under subregulation (1) may appeal in writing against the notice to the Minister who may uphold, revoke, or amend the notice.

(3) A person who uses, sells, or supplies material containing asbestos in contravention of a notice made under subregulation (1) commits an offence.

## PART 4 — DISPOSAL OF MATERIAL CONTAINING ASBESTOS

## Disposal of material containing asbestos

10. (1) Material containing asbestos in a district referred to in Schedule 1 shall be disposed of —
- (a) at a place referred to in Schedule 2; or
  - (b) if the material containing asbestos is asbestos cement sheet and the volume of the asbestos cement sheet is not more than a cubic metre — at a place referred to in Schedule 2 or Schedule 3.
- (2) Material containing asbestos in a district other than a district referred to in Schedule 1 shall be disposed of at a place approved in writing as a place for the disposal of material containing asbestos by —
- (a) an environmental health officer appointed by the local authority of the district; or
  - (b) the Executive Director, Public Health.

(3) Except as provided by regulation 11, a person who disposes of material containing asbestos otherwise than in accordance with subregulation (1) or (2) commits an offence.

#### Executive Director, Public Health may approve alternative place for disposal

11. A person does not commit an offence under regulation 10 (3) if the person has the prior written approval of the Executive Director, Public Health to dispose of material containing asbestos other than in accordance with regulation 10 and does so in accordance with that approval.

#### Material for disposal to be wrapped in plastic

12. A person shall not take material containing asbestos to a place referred to in Schedule 2 or 3, or to a place approved by the Executive Director, Public Health as a place for the disposal of material containing asbestos, unless the material containing asbestos is wrapped in plastic so as to prevent asbestos fibres entering the atmosphere, or is packaged in such other manner as is approved in writing by the Executive Director, Public Health.

#### Method of disposal

13. A person who operates or controls a place referred to in Schedule 2 or 3, or a place approved by the Executive Director, Public Health as a place for the disposal of material containing asbestos, shall dispose of material containing asbestos in such manner as is approved in writing by the Executive Director, Public Health.

### PART 5 — MISCELLANEOUS

#### Penalties

15. (1) A person who does not comply with these regulations commits an offence.

(2) A person who commits an offence under these regulations is liable on conviction to —

- (a) a penalty of not more than \$1 000 and not less than —
  - (i) in the case of a first offence, \$100;
  - (ii) in the case of a second offence, \$200; and
  - (iii) in the case of a third or subsequent offence, \$500; and
- (b) if that offence is a continuing offence, a daily penalty of not more than \$100 and not less than \$50.

#### Repeal

16. The *Health (Disposal of Asbestos Waste) Regulations 1984* are repealed.

## SCHEDULE 1

[Reg. 10]

## DISTRICTS

## 1. Cities —

Armadale	Nedlands
Bayswater	Perth
Belmont	Rockingham
Canning	South Perth
Cockburn	Stirling
Fremantle	Subiaco
Gosnells	Wanneroo
Melville	

## 2. Towns —

Bassendean	East Fremantle
Claremont	Kwinana
Cottesloe	Mosman Park

## 3. Shires —

Kalamunda	Swan
Mundaring	Serpentine-Jarrahdale
Peppermint Grove	

## SCHEDULE 2

[Reg. 10]

PLACES AT WHICH MATERIAL CONTAINING ASBESTOS  
MAY BE DISPOSED

District. Place.	Description of land.	Certificate of title. Volume/Folio
Gosnells. Kelvin Road, Orange Grove.	Portions of Canning Location 13 being:	
	Lots 231-7 (incl) on Plan 3327	1106/373
	Part of Lot 238 on Plan 3327	1152/804
	Part of Lot 238 on Plan 3327	1436/456
	Part of Lot 239 on Plan 3327	1463/089
	Lots 241 & 242 on Plan 3327	1031/307
	Lot 3 on Diagram 16433	1184/164
	Part of Lot 4 on Diagram 16433.	1688/285
	Portions of Canning Location 708 being:	
	Lots 10, 11 and 12 on plan 4336	783/25
Lot 13 on plan 4336	1108/98	
Lot 14 on plan 4336.	1120/93	
Kalamunda. Brand Road, High Wycombe.	Portion of Swan Location 2089 being:	
	Part of Lot 13 on Diagram 24292	1667/878
	Lot 14 on Diagram 24292	1551/323
	Part of Lot 18 on Diagram 24292.	1582/348
Kalamunda. Dawson Avenue, Forrestfield.	Reserve 41156.	
Kwinana. Thomas Road, Kwinana Beach.	Portion of Kwinana Lot 62 being Lot 304 on Diagram 72808.	1795/919

Melville. Dundee Street, Leeming.	Part of Reserve 24826 as shown on plan on Health Department Policy File 89-09094.
Stirling. Alexander Drive, Mirrabooka.	Swan Location 4778 and portion each of 1656/048 Swan Locations 4775, 4779, K1 and L, being part of Lot 1 on Diagram 36381.
Swan. Toodyay Road, Red Hill. (Eastern Metropolitan Region.)	Portion of Swan Location 1310 being part 1131/63 of Lot 81 on Diagram 14276.  Portion of Swan Location 1317 being Lot 1717/585 2 the subject of Diagram 68630.  Portion of Swan Location 1317 being Lot 1128/23 1 the subject of Diagram 15239.
Wanneroo. "Tamala Park." 1700 Marmion Avenue, Mindarie.	That part of Portion of Swan Location 1508/931 1370 being part of Lot 17 on plan 12488 as is approved under s. 119 (see <i>Gazette</i> , 9/1/1987, p. 20.).

## SCHEDULE 3

[Reg. 10]

**PLACES AT WHICH ASBESTOS CEMENT SHEET  
(NOT MORE THAN ONE CUBIC METRE IN VOLUME)  
MAY BE DISPOSED  
(In addition to those in Schedule 2)**

District. Place. (Region.)	Description of land.	Certificate of title. Volume/Folio
Armadale. Hopkinson Road, Byford.	Peel Estate Lots 186 & 1120 Portion of Peel Estate Lot 185 Portion of Peel Estate Lot 185 being Lot 1 the subject of Diagram 12494.	1141/392 1141/905 1086/54
Canning. Ranford Road, Canning Vale.	Portions of Canning Location 21 being: Part of Lot 74 on Plan 2903 Part of Lot 74 on Plan 2903 Part of Lot 75 on Plan 2903 Part of Lot 75 on Plan 2903 Lot 76 on Plan 2903 Part of Lot 77 on Plan 2903 Part of Lot 78 on Plan 2903 Part of Lot 79 on Plan 2903.	1521/518 1704/235 1521/521 1518/830 1518/829 1521/519 1521/517 1703/988
Cockburn. Rockingham Road, Henderson.	Portions of Jandakot Agricultural Area Lot 240 being: Lot 51 on Diagram 55400 Lot 52 on Diagram 55400	1733/462 1733/463
	Portion of Jandakot Agricultural Area Lot 235	1824/45
	Portion of Jandakot Agricultural Area Lot 236 and being part of Lot 2 on Diagram 17998	1824/46
Serpentine- Jarrahdale. Watkins Road, Mundijong.	Reserve 23011 (Mundijong Lot 199).	

By Command of the Lieutenant-Governor, and Deputy of the Governor.

M. C. WAUCHOPE, Clerk of the Council.