



New South Wales

Occupational Health and Safety Amendment (Chrysotile Asbestos) Regulation 2003

under the

Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

JOHN DELLA BOSCA, M.L.C.,

Minister for Commerce

Explanatory note

The objects of this Regulation are to phase in a prohibition on the use of chrysotile (otherwise known as white asbestos), subject to some specified exceptions, and to make consequential savings and other provisions. At present the use of chrysotile is restricted rather than prohibited. The prohibition is consistent with the *National Model Regulations for the Control of Workplace Hazardous Substances* of the National Occupational Health and Safety Commission (*the NOHSC*). The Regulation will also lower the exposure standard for chrysotile from 0.5 to 0.1 fibres per millilitre of air in accordance with recent changes to the *National Exposure Standards for Atmospheric Contaminants* made by the NOHSC.

This Regulation, which will commence on 31 December 2003, amends the *Occupational Health and Safety Regulation 2001* so as to:

- (a) set the new lower exposure standard for chrysotile referred to above, and
- (b) include chrysotile within the definition of *prohibited carcinogenic substance* (except in specified circumstances, such as when it is used for research or analysis) and remove it from the definition of *notifiable carcinogenic substance* for the purposes of Division 3 of Part 6.3 of Chapter 6 of that Regulation (which Division controls the supply of carcinogenic substances), and

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- (c) allow the lawful supply of chrysotile, and items containing chrysotile, for the purpose of research or analysis, in the course of its being removed and disposed of, if it is encountered in the course of non-asbestos mining and for display purposes, and
- (d) prohibit the use of chrysotile, and items containing chrysotile, except in the specified circumstances referred to above, and
- (e) allow chrysotile products installed and in use before 31 December 2003 to continue to be used as a saving measure, and
- (f) create certain exemptions which will allow specified products that contain chrysotile, such as certain asbestos fibre gaskets, vanes for rotary vacuum pumps, rotary compressors, seals and diaphragms and parts and components subject to exemptions under the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* of the Commonwealth, to be lawfully used, but only for a specified limited time, and
- (g) make it clear that the present prohibitions on the supply and use of certain forms of asbestos extend to items that contain those forms of asbestos.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including sections 34 (a)–(d) and 33 (the general regulation-making power).

Occupational Health and Safety Amendment (Chrysotile Asbestos) Regulation 2003

under the

Occupational Health and Safety Act 2000

1 Name of Regulation

This Regulation is the *Occupational Health and Safety Amendment (Chrysotile Asbestos) Regulation 2003*.

2 Commencement

This Regulation commences on 31 December 2003.

3 Amendment of Occupational Health and Safety Regulation 2001

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 4 Application of Regulation

Insert after clause 4 (3) (b):

- (b1) clauses 164 (Use of hazardous substances) and 345 (Proposed work in respect of which notice to WorkCover is required), but only to the extent those clauses relate to the handling or use of chrysotile (white asbestos),

[2] Clause 51 Atmospheric contaminants—particular risk control measures

Omit “chrysotile or” from clause 51 (2) (a).

[3] Clause 51 (2) (b)

Omit the paragraph.

[4] Clause 158 Definitions

Omit “Chrysotile [12001-29-5] (white asbestos)—when used for the manufacture of asbestos products” from the definition of *notifiable carcinogenic substance*.

[5] Clause 158, definition of “prohibited carcinogenic substance”

Insert in alphabetical order:

Chrysotile [12001-29-5] (white asbestos)—except when:

- (a) used for the purpose of research or analysis, or
- (b) being removed or disposed of, or being handled for storage or stored awaiting disposal, or
- (c) encountered during non-asbestos mining, or
- (d) comprising or included in an item being used for the purpose of a historical or educational display.

[6] Clause 159 Supply of carcinogenic substances

Insert before clause 159 (1):

- (1AA) In this clause, a reference to a prohibited carcinogenic substance includes a reference to an item that contains any form of asbestos that is a prohibited carcinogenic substance.

[7] Clause 159 (1A) and (1B)

Insert after clause 159 (1):

- (1A) In addition, supplying chrysotile (white asbestos) does not contravene subclause (1) if the only purpose of the supply is:
 - (a) so that it may be removed or disposed of, or
 - (b) so that it may be stored awaiting disposal, or
 - (c) so that it may be used for the purpose of a historical or educational display.
- (1B) Subclause (1) does not apply to a supply of chrysotile (white asbestos) encountered during non-asbestos mining.

[8] Clause 164 Use of hazardous substances

Insert before clause 164 (1):

- (1AA) In this clause, a reference to a hazardous substance includes a reference to an item that contains any form of asbestos that is a hazardous substance.

[9] Clause 164 (1), Table

Insert after the matter relating to arsenic or its compounds:

Asbestos in the form of chrysotile	All purposes, including the purpose of replacing an item including chrysotile with another item including chrysotile, but not for the purpose of: <ul style="list-style-type: none">(a) research or analysis, or(b) being removed or disposed of, or being handled for storage or stored awaiting disposal, or(c) a historical or educational display of an item consisting of or including chrysotile.
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[10] Clause 164 (1A)

Insert after the Table to clause 164 (1):

- (1A) Subclause (1) does not apply to a use of chrysotile (white asbestos) encountered during non-asbestos mining.

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Schedule 1 Amendments

[11] Clause 362

Insert after clause 361:

362 Savings and transitional provisions

Schedule 3 has effect.

[12] Schedule 3

Insert after Schedule 2:

Schedule 3 Savings and transitional provisions

(Clause 362)

1 Savings relating to prohibition of chrysotile (white asbestos)

Clauses 159 and 164 do not apply to the supply or use of a product containing chrysotile that was installed and in use before 31 December 2003.

2 Transitional arrangements relating to prohibition of chrysotile (white asbestos)

Clauses 159 and 164 do not apply, until the date specified, to the supply or use of the following items that contain chrysotile:

- (a) until 31 December 2004, compressed asbestos fibre gaskets used with saturated steam or superheated steam or with substances classified as dangerous goods under the *Dangerous Goods Act 1975*, including goods with corrosive, flammable, very toxic and toxic classifications,
- (b) despite paragraph (a), until 31 December 2006, compressed asbestos fibre gaskets used with chlorine in liquid chlorine service plants with designed process conditions of -45degrees Celsius and 1,500kPa pressure,
- (c) until 31 December 2007, any product consisting of a mixture of asbestos with phenol formaldehyde resin or with creylic formaldehyde resin used in:
 - (i) vanes for rotary vacuum pumps, or
 - (ii) vanes for rotary compressors, or

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- (iii) split face seals of at least 150 millimetres diameter used to prevent leakage of water from cooling water pumps in fossil fuel electricity generating stations,
 - (d) until 31 December 2006, diaphragms for use in electrolytic cells used for chlor-alkali manufacture in electrolysis plants in existence on 31 December 2003,
 - (e) until 31 December 2007, or such earlier day on which the relevant exemption ceases to have effect, parts and components that are the subject of an exemption granted under Schedule 1B to the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994*.