

## Health and Safety at Work (Asbestos) Regulations 2016 (LI 2016/15)

### ASBESTOS UPDATE 13<sup>th</sup> June 2018

On 21<sup>st</sup> March 2018 we provided our members with a notice advising of the impending implementation of the Health and Safety at Work (Asbestos) Regulations 2016 (LI 2016/15) from 4<sup>th</sup> April 2018. This notice was provided on the basis of the best available information at that time. Since then, WorkSafe have received a wide range of enquiries from affected parties, including enquiries from property owners and a number of Bodies Corporate who had been advised by service providers that building surveys must now be completed. WorkSafe have been somewhat surprised at the hard-line approach being taken within the service industry in implying that urgent surveys are required to be done for all buildings.

WorkSafe have since released an explanatory note in relation to the Application of the Asbestos Policy to Residential Landlords *WSNZ-3071-Residential-Landlords-Asbestos-Policy-v3-0-FA-LR.pdf* which may be viewed at <https://worksafe.govt.nz/laws-and-regulations/operational-policy-framework/operational-policies/policy-clarification-residential-landlords-and-asbestos/>

This Policy is advised by WorkSafe to be applicable to Building Managers hence has some application to BC.

However, a similar specific policy in respect to Bodies Corporate is expected to be released shortly.

**In the interim, a number of points of clarification have been confirmed by WorkSafe:**

#### **BASIS OF REASONABLE GROUNDS.**

It is considered acceptable to WorkSafe that a number of sources for providing reasonable grounds for believing that asbestos is not present in a property or building:

- Confirmation by the architect, design or construction engineer or quantity surveyor involved in the construction of the property or building
- Confirmation by tradespeople who have been involved in actual maintenance or refurbishment work within the property or building
- Other technical or service providers who have had reason to provide commercial support to the property owners that has required them to obtain a detailed working knowledge of the property or the building.

#### **SURVEY REQUIRED ONLY IF WORK IS BEING DONE.**

Unless a property or building has clear and obvious signs of a potential asbestos hazard (such as flaking ceiling finishes which may provide an immediate hazard to residents) then even if the BC cannot meet the test of having "*reasonable grounds for believing that asbestos is not present*", there is no requirement for a survey to be conducted **until work on the property or building is being planned or carried out.**

#### **RESPONSIBILITY OF CONTRACTORS TO COMPLY.**

The primary responsibility for compliance with the management of the Asbestos Regulations during the course of maintenance or refurbishment rest with the party contracted to carry out the work.

Please note that these clarifications do not detract from the Preliminary Notice provided on 21<sup>st</sup> March as this was and remains based on the Regulations themselves. There have been no amendments to the Regulations.

We commend this series of clarifications to your urgent attention.

Body Corp Chairs Group.

National Executive