

**Asbestos Licensing Unit (ALU)  
Asbestos Liaison Group (ALG)  
ALG Memo 02/12**

*ALG memos are produced by the ALG to provide information and guidance to the asbestos industry and other interested stakeholders.*

**Date: 06/07/2012**

**Subject: Notification of licensed asbestos work (including HSE Policy on requests to waive the 14 day notification period)**

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**This memo amends the previous ALG Memos 07/08 & 6/02 regarding notifications and waiver requests, which should be destroyed.**

### **Legal position**

1. Regulation 9 of The Control of Asbestos Regulations 2012 requires licence holders to notify in writing the appropriate Enforcing Authority (EA) before undertaking licensable work with asbestos. This notification must be **made at least 14 days before** licensable work commences.
2. A shorter time may be granted under exceptional circumstances. This must be agreed with the appropriate EA. The agreements when granted are known as waivers.
3. Regulation 8 allows HSE to impose whatever conditions on the licence it considers appropriate (subject to appeal). In addition to the notification required by Regulation 9, most licence holders are also required by Condition 2 of their licence to notify the correct EA at least 14 days before starting licensed asbestos work. They are also required to inform the EA, in writing, if information about the start date, duration, type of work and location changes. In addition, licence holders must submit a copy of their licence (Condition 1). For ease of reference the standard licence conditions appear in full in Annex 1.
4. Plans of work (also known as method statements) should be prepared after making a site visit to price the job and prior to notifying the work. They must detail how the work is to be carried out and be explained to the workers who will carry out the work.  
  
Plans of work are not required to be routinely submitted with a FOD ASB5 form. However, the EA can request plans of work as they see fit. It could be that a specific contractor has to send in plans of work for all jobs done in a geographical area, over a given time period, or for a specific job. The plan of work should be available at the time of notification, so the request can include that it is sent in with the notification. Guidance on completing a plan of work can be found in the relevant ALG Memo.
5. Every notification of work will comprise a completed FOD ASB5 form (or equivalent) and a copy of the contractor's licence.

## **Review of notifications and plans of work**

6. The notification period starts 14 days from receipt of all the documentation. For example, a notification received by the EA at midday 29 November will mean that work cannot start until midday 13 December; a full 14 days later.

If any of the documentation is missing, the notification is incomplete, or if it is discovered that the plan of work is not suitable and sufficient for the proposed work, the 14 day notification period will not start. Notifications submitted by fax or email out of office hours (Monday – Friday 8.30am – 5.00pm) will be treated as received on the next working day. If the notification is posted, contractors need to allow for the time taken to mail the papers and assume that use of 1<sup>st</sup> class post will mean next day delivery.

7. Enforcing Authorities **do not agree or approve** notifications or plans of work, nor do they acknowledge receipt of them\*. Checks will be made on the completeness and accuracy of notification information. If a plan of work is requested and found to be inadequate, then contractors may be required to resubmit it and the 14 day notification period will not start until a suitable and sufficient plan is received.

\*Contractors who require a receipt are encouraged to submit their notifications to HSE by email and set their system to receive automatic acknowledgements of receipt. It will assist HSE in quickly distinguishing asbestos notifications from other email received, if, when submitting electronic notifications, contractors would indicate in the subject title that the message relates to notified asbestos work eg “Subject - Asbestos Notification: Joe Bloggs Asbestos Removers Ltd”.

## **Suitable and sufficient plans of work**

8. Inspectors often report generic plans of work that provide little site-specific information about how the work will be carried out. Contractors are reminded to familiarise themselves with the relevant ALG Memo, which provides advice on planning. The standard ASB5 notification form includes a declaration that a suitable and sufficient plan of work has been prepared and contractors who fail to produce suitable and sufficient site-specific plans of work may be subject to enforcement action. Repeatedly failing to adequately plan work may result in a reduced licence term, additional conditions being added, or the start of revocation proceedings.

## **Requests to waive the 14 day notification period**

9. It is HSE's policy that waiver requests will be granted only when there is a genuine emergency or equally pressing reason.

10. Regulation 4 requires asbestos to be managed in non domestic properties. Waivers are unlikely to be granted where there has been a failure to manage asbestos or to accommodate lack of foresight and planning by a client or contractor, unless an immediate risk of significant exposure has been created and the area concerned cannot be sealed off to prevent that exposure.

11. Each request will be examined on the specific reasons as detailed, but examples of such situations are:

- Cases where there is an imminent risk to health, the environment, or where there is public alarm, and the risk cannot be avoided simply by leaving the area and allowing it to remain undisturbed, and/or the area cannot be sealed.
- Cases where asbestos is found during work and its presence would not have been reasonably foreseeable or reasonably practicable to detect (N.B. this is

unlikely to be the case where an appropriate refurbishment/demolition survey as required by Regulation 5 has been carried out).

- Cases where a breakdown in plant or equipment requires urgent remedial action (N.B. compliance issues with Regulation 4 may be examined).
- Cases where there is or is liable to be worry or hardship for domestic clients, including old or infirm persons.

12. In an emergency a waiver may be granted based upon telephone notification. However, this must be followed by the paperwork listed in paragraph 13 below.

13. All waiver requests must be sent with:

- the FOD ASB5;
- a suitable and sufficient method statement and equipment specification, including a diagram showing the arrangement of the NPU(s) and location of the DCU and transit route (if proposed); and
- written confirmation from the contractor's client to support the request (i.e. evidence from the client that there is an emergency or equally pressing reason).

**Requests will not be considered unless all this information is provided.**

14. If disaster recovery work is proposed at short notice out of normal hours, HSE will accept a request by fax or email (local office arrangements for the latter permitting) to waive the normal 14 day notification period for emergency weekend or bank holiday work provided:

- the request is made as soon as practicable after the company is asked to undertake the work;
- the work with asbestos material is limited to that which is necessary to deal with the immediate emergency to make a situation safe; and
- the request includes the information normally expected for any waiver request as listed above in paragraph 5.

HSE will review any requests for waivers received in such circumstances to check that they satisfy these criteria. If it transpires that companies making out-of-hour requests appear to be undertaking work which does not arise from a genuine emergency, HSE may consider enforcement action, licence amendment or refusal to accept further waiver requests from such companies.

15. The dates stated on the waiver request for a smoke test and for the start of work must be adhered to unless alterations are agreed with the Inspector concerned.

16. The majority of waiver requests will be handled by Construction Division inspectors. On the rare occasions when other staff are involved, the local ALPI should be informed.

#### **Amendments to notifications etc**

17. Annex 2 provides guidance on when to re-notify (re-starting the 14 day notification period) or when to inform the EA about significant changes to the work.

**Asbestos Liaison Group  
July 2012**

## **ANNEX 1**

### **Standard Licence Conditions**

#### **Condition 1**

This licence or a copy thereof, should be made available by the licensee for inspection at the request of any person to whom the licensee submits a tender or quotation for work with asbestos and shall be available for inspection at all work sites. A copy of the licence shall accompany each notification required by Condition 2.

#### **Condition 2**

The licensee shall give notice in writing of the work to the appropriate HSE or local authority office at least 14 days before the work is commenced, or such other period as the authority will allow. The notice shall specify the type of work to be carried out, the likely duration of the work, the address of the premises at which the work is to be carried out and the date of commencement of the work activity. The enforcing authority must be informed in writing as soon as possible if this information changes. This condition will only apply to licensable work with asbestos as defined in Regulation 2 of the Control of Asbestos Regulations 2012 or when the licensee hires out employees (at operative level) to other licensees.

#### **Condition 3**

(a) Prior to submitting the notice of work required by Condition 2 the following documents shall be prepared by the licence holder:

- i) a suitable and sufficient written statement of the plan of work to be used;
- ii) a suitable and sufficient written specification for the equipment for the protection and decontamination of those engaged in asbestos work and also for the protection of other persons, as appropriate to the work.

(b) The licensee shall, on request by HSE and/or the local authority provide copies of the documents referred to in 3(a) and/or allow inspection of those documents as required.

(c) Work carried out under the notice of work required by Condition 2 shall be carried out in accordance with the suitable and sufficient plan of work and the equipment, as specified in (a) (i) and (ii).

The plan of work and written specification must be provided on request and be available at the time of notification.

## ANNEX 2

The following is not an exhaustive list. It is a guide summarising the appropriate level of paperwork required in the most frequent asbestos notification situations encountered, although there may be occasions when the decision on requirements will have to be reached directly with the local Asbestos Licensing Principal Inspector, using the guide as a framework.

Query	Paperwork to HSE/LA	Comments
1 Same material as previously notified - different method used from original method statement/plan of work	Amendment to the MS/POW required when requested - fax/email will suffice	
2 More asbestos uncovered (same type of material) adjacent or in close proximity to original work	Faxed amendments to ASB5 and MS/POW required when requested	Consider as extension to the original work - but may require new ASB5/MS depending on size/complexity of additional work
3 More asbestos uncovered (different type of material) adjacent or in close proximity to original work	New ASB5. MS/POW etc required when requested	Outwith scope of original work. If properly planned, could have formed part of original notification
4 More asbestos uncovered elsewhere on site (but not in close proximity to original work)	New ASB5. MS/POW etc required when requested	Outwith scope of original work. If properly planned, could have formed part of original notification
5 Work completed, cleared up. Contractor still on site and required to undertake more work	New ASB5. MS/POW etc required when requested	New work - possible waiver situation but unlikely
6 Asbestos removal from each floor of a 20 storey building	Single notification (not 20) required plus MS(s)/POW(s) when requested	Contractor will require a programme/overall plan of work for the project
7 Repetitive asbestos removal from several buildings on large scale in agreement with local EA	Single notification acceptable; phased submission of MSs/POWs to be agreed with EA when requested; submission 14 days prior to commencement of phase. EA to be regularly updated.	Contractor will require a programme/overall plan of work for the project.
8 Change of start date - new date known	Faxed/email amendment to ASB5 required	As per licence condition 2
9 Change of start date - new start date <b>NOT</b> known	New ASB5. MS/POW etc required as requested when new start date has been established	
10 Weekend/night work	This information should be recorded in the MS/POW (ALG Memo2/03 MS Aide memoire refers)	ASB5 states duration – no indication of working pattern. Unhelpful when inspectors visit and find work being done out of hours.
11 Some licence conditions place ongoing obligations on the licensee eg to name the site supervisor. Changes need to be notified to the enforcing authority	Faxed amendment to the ASB5. MS/POW required as requested	