**Asbestos regulations – what property managers and landlords should know:**

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The Health and Safety in Work Act 2015 brings with it a number of new regulations. The **Health and Safety at Work (Asbestos) Regulations 2016** (“Asbestos Regulations”)came fully into force on 4 April 2018. We explore what these regulations mean for property owners and property managers; providing practical suggestions to navigate them.

**What is asbestos?:**

* Asbestos is a naturally occurring silicate mineral and has been used for thousands of years. Egyptians used it to preserve the deceased. As an industrial revolution material, it was found to be an incredibly resilient and fire retardant material with a tensile strength stronger than steel. As a result of these properties, asbestos and asbestos containing materials or “ACMs” were used widely in the building industry across the world. In New Zealand, asbestos and ACMs were used in the building industry primarily between the 1940s through until the year 2000. Since 2016, the importation of asbestos has been banned.

There is good reason behind the banning of asbestos and ACMs. These materials became unpopular due to being linked to serious health problems such as cancer. The link between being exposed to asbestos fibres and cancer (bronchogenic carcinoma/cancer of the lungs) was identified in the 1960s by the then NZ Department of Health.

Despite the health risks and due to the robustness of asbestos and ACMs, large amounts of asbestos and ACMS were used in New Zealand in the construction industry and in the refurbishment buildings until 2000. For property managers, homeowners and investors, this means there are many buildings in New Zealand (industrial, commercial and residential) that contain asbestos and ACMs. These materials are not to be feared until they are disturbed or damaged. The risk to health only arises when there is damage and fibres are released into the air. If those fibres are breathed in, that is when they can cause serious health issues such as cancer of the lungs. To mitigate the dangers of asbestos and ACMs, the Asbestos Regulations form the basis of managing these risks and ensuring safety of all.

**How are asbestos and ACMs recognised?:**

ACMs are most likely to be found in buildings that were constructed before the approximately the mid 1980s. Homes built after 2000 are highly unlikely to contain asbestos or ACMs. There is a good general guide for property managers and landlords is as follows:

* A property is **highly** likely to have some materials containing asbestos if it was built before the 1980s.
* A property is **likely** that it will have some materials containing asbestos if it was built between the 1980s and 1990s.
* A property is **unlikely** to have materials containing asbestos if it was built after 1990.

A good general guide of asbestos and ACMs being present in residential property is as follows[[1]](#footnote-1).

**Residential property:**

* cladding, including baseboards
* vinyl flooring
* wet area linings and substrates
* electrical meter boards (used due to fire retardant properties)
* compressed sheeting such as cladding
* soffits
* roofing panels, eg super six roofing
* exterior window flashings
* toilet seat and cistern
* bath panels
* hotwater cupboard linings
* water tanks
* ceiling tiles
* textured ceilings (looks like rough paint)
* interior window panel
* gutters and downpipes
* areas surrounding a fireplace
* fencing panels
* stormwater traps
* stormwater and sewage piping
* loose fill insulation
* partitions eg fire walls.

**Why is awareness important?:**

If the asbestos and ACMS are in good condition and remain undisturbed, these materials may not be of a significant risk. However, if they are in poor condition, are disturbed, damaged or crushed, fibres are likely to be released into the air and this is when asbestos and ACMs become hazardous to health.

Examples of situations where fibres may enter the atmosphere include unsealed sheets of asbestos roofing which may shed fibres over time simply due to age and weathering or if asbestos cladding is damaged. Similarly fibres can be released if an electrician drills into an electrical meter board.

**What does this mean for property managers and landlords?:**

**Renovations:**

If asbestos or ACMs are identified in a property during the process of renovation and require removal, the Asbestos Regulations state that if is only a small amount of asbestos (that is less than 10m2), then a suitably qualified contractor may be able to remove it. If the area of removal work is greater than 10m2 it must be done by a licenced removal company. It is important that the suitably qualified contractors follow the Asbestos Regulations and ensure safety of everyone in and around the property.

**Existing properties:**

For investors, it is now more important than ever to have a professional property manager helping to navigate all the changes in legislation that have been introduced over the last few years. The property management professional will work with their investor clients to identify areas of investment properties that may have asbestos and ACMs. In accordance with the Asbestos Regulations, there must be a management plan in place if the materials start to degrade or are damaged. If the investor is unsure about any aspect of their investment property, then the property manager can assist by engaging on the investor’s behalf a suitably qualified and professional person to assist in identifying the presence of ACMs and recording these in an asbestos register.

Some areas of a property may be reasonably obvious to identify. For example, most are familiar with a super 6 roof or asbestos fencing and cladding materials. When inspecting a property (which should be done every three months by a professional property manager), only visible and identified areas can be inspected; eg fencing or cladding. Any areas that are not visible, such as an asbestos roof, may need to be examined by a suitably qualified professional to ensure that there is no breakdown of the asbestos and release of any fibres into the atmosphere. The question of how often a roof should be inspected is a good one and the answer will depend on the condition of the roof once it has been inspected.

If a property has cladding that may contain asbestos, the property manager should check in their routine inspections that it remains in good condition, that is, that there is no cracking or broken areas. If damage or degrading of the materials has occurred, the Asbestos Regulations and the Health and Safety in the Workplace Act 2015 requires skilled professionals who are suitably qualified and licensed to able to deal with asbestos and its removal to provide advice on the damage and a replacement programme. It is important that the property manager also brings awareness to tenants through the tenancy process and in particular where asbestos or ACMs may be present. It is important for the tenant to notify the property manager if they notice any degrading or damage in between inspections.

It is important to also reassure tenants, that asbestos is fine until it starts to break down. If tenants become concerned, they should contact their property manager in the first instance like any other maintenance issue (with urgency when notified given the risk) and the property manager will make an assessment of whether to engage a suitably qualified professional to review the situation.

**Creating a register and updating it:**

Property managers and landlords have an obligation to create a register of any properties that may contain asbestos and ACMs. This is important in case any contractors need to work on the property and a register will enable information to be provided to prevent any harm to tenants and contractors. Electricians are usually very good at notifying property managers if the meterboard contains asbestos as they, like all contractors, have obligation to keep themselves safe. Regulation 13 of the Asbestos Regulations requires the property manager and landlord to ensure the following is captured in the register:

* The identification of asbestos or ACM;
* Decisions and reasons for those decisions to be documented about the management of the risk from asbestos;
* Procedures for detailing incidents or emergencies (e.g. list of suitably qualified contractors whom the property manager is able to contact and seek assistance from).

1. Worksafe New Zealand, see worksafe.govt.nz [↑](#footnote-ref-1)