



# ASBESTOS - Working in Government Facilities

## The Register

An Internet search reveals the list of Queensland Government facilities on the Asbestos Register runs to 116 pages. That is approximately 5,800 to 6,400 government facilities have been identified as containing asbestos. These facilities consist of state primary and high schools, police stations, fire stations, child health clinics, hospitals, ambulance stations, dental clinics and court houses.

Independent research completed to date suggests that structures built or renovated before 1988 may contain asbestos materials.

Asbestos was widely used during the 1950's, 60's and early 70's in the construction of buildings, motor vehicles, processing plants and ships.

It is a requirement of the *Workplace Health & Safety Act 1995* that an employer provide to an employee a safe place of work. Government employees working in government facilities listed on the Asbestos Register, need to be aware of the presence, level of risk of injury from asbestos exposure and understand the obligations that an employer ought to fulfil to ensure a safe workplace for employees. A large majority of buildings listed on the register are government schools. These buildings were constructed between 1900 and 1970 when asbestos was used widely in building construction.

Asbestos exposure can be fatal. It is therefore important that all government workers ascertain whether their workplace is a government facility listed on the Asbestos Register, and if so, understand the level of risk that the presence of asbestos poses to their workplace health and safety. It is also important to be vigilant in reporting structural defects and building wear and tear to your employer as decay of materials containing asbestos could result in release of airborne asbestos particles.

The Queensland Government has an obligation to inspect and identify premises that it controls and maintain a register of where asbestos is present. When asbestos is identified, then the facility is listed on the Asbestos Register.

**Your employer has an ongoing obligation to monitor the level of risk imposed by the presence of that asbestos in the workplace.**

**In respect to asbestos, the National Occupational Health & Safety Commission's ultimate goal is for Australian workplaces to be free of asbestos.**

**WORKPLACE INJURY  
MAJOR ALERT**

May 2005

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Until that occurs, it is important that persons working in facilities containing asbestos be aware of the presence of asbestos and take steps to assist your employer to minimise the risk of asbestos exposure to you.

Three important questions therefore arise. What is asbestos? What is my employer doing about asbestos? and What can I do about it to minimise risk of injury?



### What is Asbestos

Asbestos is a mineral found in rock. Historically, it has been mined for use in more than 3,000 products. There are three main types of asbestos that were used in the construction of buildings. These types are crocidolite, amosite and chrysotile. They are commonly known as blue

asbestos, brown or grey asbestos and white asbestos respectively.

After mining of the mineral, the mineral clumps are broken down into bundles of loose fibres which were blended with other materials to produce a wide variety of products.

Asbestos is generally fireproof and therefore was used for its fireproofing properties in the construction of buildings. It was also found to have useful soundproofing properties and was therefore used for those purposes also.

### Where is Asbestos Found

Due to its fire resistant properties, asbestos was used in more than 3,000 products. It was used in cement-based products such as sheeting and pipes, used for the manufacture of heat resistant textiles such as cloth and padding, was used for brake linings and clutch plates where friction would occur. It was also used in paints and protective paper, in roofing materials, on floor tiles, in ceilings for thermal insulation, in plaster for soundproofing, in the insulation of air-conditioning ducts and hot water and cold water pipes. It was sprayed on fire doors and laboratory table tops, used in ceramic tiles and plasterboard. It was also used for electrical meter boards in meter boxes, as ironing board covers, in suspended ceilings and in the manufacture of clothing.

In buildings, walls and ceilings may contain asbestos sheeting, there may be asbestos insulation, roof tiles and vinyl floor tiles may also contain the substance. Fire doors may have been sprayed with the substance. Paint may also contain asbestos as may pipe and boiler insulation, plaster used for its soundproofing qualities, table tops and



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tiles. It may also be present in the lining under the eaves of buildings.

### Managing Asbestos

Asbestos was banned from use in Australia in November 2003.

However, asbestos is still present in the workplace due to its presence in building structures and in particular, in Queensland Government schools. Asbestos has been mixed with other substances in the manufacture of rubber, cement and paper. It can also be found in talc, clay, sand and chalk in minute quantities.

Whilst the compounds containing asbestos are abundant, asbestos is only dangerous if the fibrous particles become airborne and are inhaled. Whilst the asbestos fibres remain intact in the compound containing it and the matrix remains stable with no airborne dust being produced, it presents, according to the National Occupational Health & Safety Commission, no health risk.

Health professionals advise that asbestos only presents a risk when it is airborne and that the risk to health increases as the number of fibres inhaled increases.

Asbestos is likely to particlise and become airborne when the matrix in which it is contained is disturbed. That is, during general maintenance or renovations when sawing, sanding, grinding and drilling of building structures occur. It may also occur during the course of demolition as the destruction of building structures causes the asbestos fibres to particlise forming dust. This dust will mix with the general dust associated with demolition and therefore the law imposes strict obligations on the demolition of structures containing asbestos and persons qualified to remove such material.

Exposure to asbestos dust does not mean that the person exposed will develop an asbestos-related disease. Fibres larger than 3 micrometres in diameter generally deposit in the nose and are cleared from the body by the normal physiological process of inhalation and exhalation and by the general need, from time to time, to blow one's nose.

It is the asbestos fibres that are below 3 micrometres in diameter that are the cause for concern. These small fibrous particles are *respirable*, which means that they have the ability to enter the deepest part of the lung and become entrapped in the body and not removable by normal physiological processes.

The presence of fibres in the lung, of itself, does not mean that an individual will suffer a respiratory disease. Tragically, asbestos-related disease is a lottery in that persons with only the most minute exposure may go on to develop an asbestos-related disease and workers clouded daily in asbestos dust can live their entire life without



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developing an asbestos-related disease at all.

Workers engaged in mining, milling and manufacturing construction processes related to the removal of asbestos products or the use of asbestos, are subject to an exposure standard. The amount of fibre concentration of the air breathed by the worker throughout a working shift has to be calculated and the exposure is not to exceed a specified time-weighted average (TWA) for each different type of asbestos mineral. The TWA applies notwithstanding that breathing apparatus may be provided to the worker to ensure their safety. The minerals crocidolite and amosite are limited to .1 fibres per millilitre, whereas with chrysotile, a larger level of exposure was initially allowed by the National Occupational Health & Safety Council. The current allowed level of exposure on a time-weighted average basis is reviewed from time to time by the Council. Its most recent Exposure Standards document should be consulted for measuring the current accepted level for workers working in this type of working environment.

Whilst the ultimate goal is to ensure Australian workplaces are free of asbestos, there are many practical consequences associated with its removal. Apart from the financial cost involved with the removal of structures containing asbestos, the cost associated with replacement of the structure or part of the structure also needs to be taken into account. Further, removal of a structure containing asbestos particulates the dust and therefore potentially creates a greater risk than leaving the structure in its present inert state.

It is however apparent that over time, building structures will deteriorate to a point where the asbestos fibres may potentially particulate. Before that occurs, these structures need to be demolished.

For an employer, such as the Queensland Government, it is a difficult balance which must be appropriately managed. Whilst on the one hand, the safety of teachers, aids, groundsmen, health care workers and other government employees is paramount, financial constraints and the disruption to social services also needs to be taken into account. Regular inspection of buildings needs to take place, not just to identify the presence of asbestos, but to assess whether the structure containing it has not deteriorated to a state where the asbestos fibres may particulate. The building is a bomb operating on a timer which has not yet been activated. However, at some point the asbestos fibres may particulate and at that point, the bomb starts ticking and becomes more dangerous. Structures containing asbestos must therefore be removed before that bomb is activated.

In removing these materials, consideration has to be given to management of the service that is to be disrupted as a consequence of the demolition. For instance, can hospitals and schools be closed for



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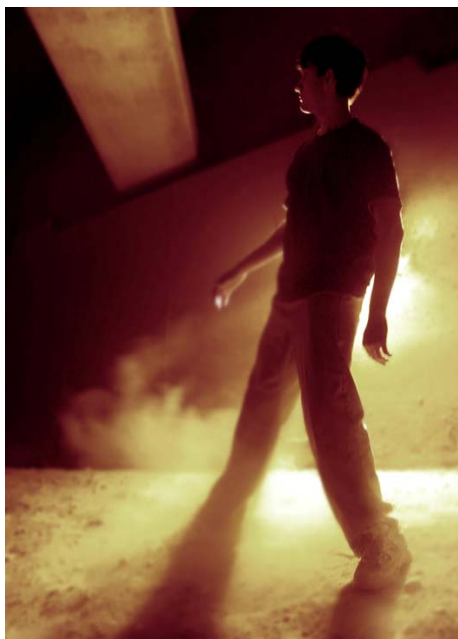
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the days/weeks/months that may be involved in removal of the asbestos. Alternatively, can the work be attended to on a weekend or on school holidays or can the demolition site be safely confined so that other activities such as treatment of patients and education of children safely continues. Do alternative facilities need to be arranged to maintain those social services away from the demolition site whilst those works are being undertaken. Lastly, financial constraints mean that asbestos products cannot be removed from all government buildings immediately and at the same time. Buildings need to be assessed and structures prioritised based upon an estimation of whether the need is immediate or can be deferred and if so, for how long.

**An asbestos free workplace is required** but given the large number of government facilities containing asbestos, this goal tragically cannot be met immediately.

Therefore, it is important that all workers take proactive steps to ensure their own health and safety. This can be achieved by being aware of the types of substances and structures that may contain asbestos and to be vigilant regarding the presence of dust from those structures, and to report any observable deterioration in a particular building structure.

Care should be taken to avoid areas where demolition and renovations are occurring if there is a possibility that the structure may contain asbestos.



### Asbestos - The Health Risks

Inhalation of a high concentration of asbestos particles may cause scarring of lung tissue. The scarring can continue notwithstanding that the exposure to the asbestos particles has ceased. This scarring of the lungs is referred to as *asbestosis*.

Asbestos exposure can also cause *cancer*. The two main types which occur are *lung cancer* and *mesothelioma*. The Occupational Health & Safety Commission prepared a guide to the control of asbestos hazards

involving structures. In that report, they advised that asbestos fibres below 3 micrometres in diameter and those greater than 8 micrometres in length, are potentially carcinogenic. They report that the risk of lung



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cancer increases with an increased exposure to asbestos.

Gastrointestinal tract cancers and cancer in other parts of the body have been noted in workers exposed to asbestos, however, the medical link between those cancers and asbestos exposure still remains uncertain.

*Mesothelioma* is a cancer of the pleura which is the outer covering of the lung. It may also occur in the peritoneum which is the abdominal cavity.

Mesothelioma is often caused by exposure to crocidolite as the fibres in that form of asbestos are straight and very thin and therefore more easily penetrate to the deep layers of the lung. The cancer cells have an uncontrolled growth, invade surrounding tissue and can potentially spread to other parts of the body.

Mesothelioma is fatal. Presently, medical science has been unable to find a cure. Statistically 72 to 80% of all mesothelioma victims developed their illness as a consequence of a work-related exposure. Many diagnosed with mesothelioma worked freely with asbestos products during working life, including working in asbestos mines and mills and in various trades involving demolition and renovation. More often than not without provision of any safety equipment such as a mask or breathing apparatus or protective clothing to limit their risk of exposure.

Mesothelioma may not develop for a significant period of time after exposure to asbestos. This *latency period* can be in the vicinity of 30 to 50 years. Symptoms such as shortness of breath and chest pain, weight loss, abdominal pain, anaemia, blood clotting and bowel obstruction may occur as first sign of the disease.

These symptoms can easily be symptoms of some other non-fatal and more likely conditions therefore it is important to consult a medical practitioner for advice if symptoms of this type develop.

Radiation, chemotherapy and surgery can be used by medical specialists to attempt to combat mesothelioma. The precise location, extent of the cancer, the stage of the disease and the general health and age of the patient are relevant for determining whether such treatment options will be viable. The majority of mesothelioma sufferers die within a very short period of time after diagnosis.

Exposure to asbestos can also cause less serious conditions such as *pleural plaques*. This involves a thickening of the pleural membrane, which is a thickening of the pleura or lining of the chest cavity. A diagnosis of pleural plaques, is not a diagnosis of cancer. Pleural plaques may indicate the presence of some exposure to asbestos



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fibres. Persons suffering pleural plaques may have no ongoing impact on their health, it may impair their breathing or at worst, may be significantly painful and therefore make breathing itself painful. In its most extreme form, it can impact upon a person's ability to enjoy life.

### Workers' Compensation

If a diagnosis of an asbestos-related disease is made by a medical practitioner, then if the exposure occurred at work, the worker will be entitled to workers' compensation for the condition.

A worker is entitled to claim workers' compensation for an injury if the employment is a significant contributing factor to the injury. The *Workers Compensation & Rehabilitation Act 2003* provides that an *injury* includes a disease contracted in the course of employment whether at or away from the place of employment if the employment is a significant contributing factor to the disease.

A worker with an accepted workers' compensation claim may be entitled to payment of medical expenses and also weekly benefits for being unable to work as a consequence of the condition. In addition, a lump sum payment on account of a residual permanent impairment as a consequence of the condition will be payable by the workers' compensation insurer. Where the condition is fatal, the worker will receive the maximum entitlement under the legislation. An additional lump sum payment may be made on account of care that the worker may require as a consequence of the condition.

Whilst many decades may lapse before an asbestos-related disease may develop as a consequence of the exposure, a worker diagnosed with a more serious dust related disease may only have weeks, or months, or a matter of a few years, to live. In these cases, workers often seek a once and for all lump sum payment from the workers' compensation insurer.

If a worker is forced to retire early as a consequence of this medical condition, then they may be entitled to recover damages from their employer or a third party on account of that loss of future earnings. Such an action will be successful where negligence can be established. This involves proving that an employer has breached its duty of care to its employee.

If the asbestos exposure occurs in Queensland, then the claim is now dealt with by the workers' compensation insurer and the Queensland Courts.

Some practitioners used to utilise the Dust Diseases Tribunal in New South Wales for these damages claims in order to expedite the Court process. Legal processes often need to be dealt with quickly so that



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the claim is resolved during the worker's lifetime. **Strict time limits** apply to common law damages claims. Special time limits apply to dust disease claims and therefore it is extremely important to seek legal advice as soon as a dust disease is suspected or diagnosed.

On 7 December 2004, the High Court of Australia handed down a decision in respect to the matter of BHP Biliton Limited -v- Schultz [2004] HCA 61. It was held that the Dust Diseases Tribunal of New South Wales was not empowered to deal with matters where the exposure occurred outside of New South Wales.

In Queensland, the *Workers Compensation & Rehabilitation Act 2003* expressly provides for the expeditious resolution of damages claims for workers with a terminal condition by halving the time frame which the workers' compensation insurer is given to investigate the matter and provide its decision in respect to admitting liability and negligence.

In addition, the *Civil Liability (Dust Diseases) and Other Legislation Amendment Bill 2005* was introduced into the Queensland Parliament on 19 April 2005. As a result changes have now been made to the Succession Act ensuring that damages for pain and suffering, ( general damages) will survive the workers death and be payable to their estate providing legal proceedings were commenced prior to the workers death. Historically, the general damages component in any action alleging negligence has not survived . The entitlement has died with the Plaintiff. The sum awarded for the pain and suffering of a dust related disease is large given the extreme suffering that is endured. This amendment will alleviate the pressure on workers and their families in having to progress and finalise legal action swiftly, at a time of significant ill-health, before the workers death and restore dignity and improve quality of life for workers and their family.

### Conclusion

Whilst the presence of asbestos in the workplace poses an unacceptable workplace health and safety hazard for workers, immediate removal of all asbestos is not practicable or financially viable.

Asbestos only presents a risk when it is airborne and removal of the asbestos product particlising the dust of itself creates greater inherent risks.

Workers should identify whether their workplace has any asbestos products in the workplace. Check whether your workplace is a government facility on the Asbestos Register. If so, make enquiry as to where the asbestos products are situated. If you notice by visual inspection any deterioration of any product that may contain asbestos,



report it immediately. Also, ensure that your employer does maintain its legal obligations and responsibilities by performing regular inspections and adhering to an asbestos management plan for its property.

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