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Residential landlords and asbestos

Purpose

The primary legislation governing work health and safety in New Zealand is the *Health and Safety at Work Act 2015* (HSWA). Policy clarifications set out WorkSafe's view of HSWA in relation to a sector, particular circumstances, or a specific function. This policy clarification sets out when residential landlords have a duty to identify asbestos and prepare an asbestos management plan.

You should read this policy clarification if you are:

- a residential landlord
- a residential property manager
- an advisor to residential landlords or property managers.

What does the law say?

Under HSWA landlords must ensure that, when work is carried out at their property, it is done safely and without endangering workers or others, including tenants.

Landlords must identify asbestos in the workplace and document plans for managing its risks in an asbestos management plan, if there is a risk of exposure to respirable asbestos fibres.

Key points

- As a residential landlord you are the person undertaking a business or undertaking (PCBU) for your rental property. You may also need to rely on other PCBUs – such as property managers and building contractors – to coordinate, collaborate and cooperate when they share overlapping duties with you.
- Under HSWA you have a duty to identify asbestos and prepare an asbestos management plan for work involving a risk of exposure to respirable asbestos fibres. For example, exposure is likely to occur from dust created when drilling or cutting into asbestos-containing materials.

- The risk of exposure depends on the kind of work you're planning to do. Types of work that create risk may include renovations, refurbishments or demolition work.
- If the work creates a risk of exposure in an area of the property you must ensure asbestos is identified and an asbestos management plan is prepared.
- The duty only applies:
 - when you are planning and carrying out the work
 - to the area relevant to the work creating a risk of exposure to respirable asbestos fibres.

What does good practice look like?

The following scenarios outline the actions you must take or ensure happen so you meet your duty under HSWA. They also illustrate that duties are specific to the part of the property where there is risk of exposure to respirable asbestos fibres.

Scenario one – demolition of a shed

A landlord is planning to demolish a shed located at the rear of a rental property. The shed is of an age and type that is likely to contain asbestos. Until now, rather than identifying all asbestos the landlord assumed it to be present and advised the tenants how to stay safe.

Before the demolition, the landlord must ensure all the asbestos from the shed is identified and removed, so far as is reasonably practicable. An asbestos management plan needs to be prepared during the planning process, prior to the demolition. The licensed asbestos removalist can prepare the plan for the landlord, as they are likely to already have the information needed for their own asbestos removal plan. The landlord and the removalist will need to coordinate, collaborate and cooperate to ensure the removal is carried out safely and in accordance with the regulations.

In this scenario, the house does not need to be included in the asbestos management plan because the work does not involve the house.

Scenario two – interior renovation

A landlord is planning to refurbish the kitchen and bathroom of a rental property. The property is of an age and type that is likely to contain asbestos, such as a house built, altered or refurbished before 1 January 2000 with building elements that may contain asbestos. Like scenario one, rather than identifying all asbestos the landlord assumed it to be present and advised the tenants how to stay safe.

Before the refurbishment begins the landlord must ensure all the asbestos from the kitchen and bathroom is identified and removed, so far as is reasonably practicable. The landlord must ensure the asbestos management plan is prepared during the planning stage and work with the removalist to ensure the removal is carried out safely and in accordance with the regulations.

In this scenario, there is no requirement to identify all asbestos and prepare an asbestos management plan for the areas of the house not being renovated because there is no risk of exposure there.

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