

Mines Safety and Inspection Act 1994

Mines Safety and Inspection Amendment Regulations 2004

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Mines Safety and Inspection Amendment Regulations 2004*.

2. The regulations amended

The amendments in these regulations are to the *Mines Safety and Inspection Regulations 1995**.

[* Reprinted as at 5 April 2002.

For amendments to 9 January 2004 see Western Australian Legislation Information Tables for 2002, Table 4, p. 245, and Gazette 27 June 2003.]

3. Regulation 9.32A inserted

After regulation 9.32 the following regulation is inserted —

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9.32A. Asbestos not to be used

- (1) Subject to subregulations (2) to (11) the principal employer and each employer at a mine must ensure that asbestos is not used at the mine.
- (2) Subregulation (1) does not apply in relation to the use of asbestos if —
 - (a) the use that is made of the asbestos is the same as it was immediately before the day upon which these regulations come into operation; and
 - (b) the asbestos has not been moved since that time.
- (3) Subregulation (1) does not apply in relation to the use of asbestos in a vehicle or other plant if —
 - (a) the use that is made of the asbestos in the vehicle or plant is the same as it was immediately before the day upon which these regulations come into operation; and

- (b) the asbestos has not been moved from its location within the vehicle or plant since that time.
- (4) Subregulation (1) does not apply in relation to the use of asbestos —
 - (a) for systematic investigations for the primary purpose of adding to general knowledge, including the carrying out of an experiment; or
 - (b) for the display in a museum or educational display of any thing manufactured in whole or in part from chrysotile (white asbestos), including work necessary to prepare and maintain the display.
- (5) Subregulation (1) does not apply in relation to the storage of —
 - (a) a compressed asbestos fibre gasket consisting of or containing chrysotile for use in a plant in contact with saturated steam, superheated steam or a dangerous substance;
 - (b) a diaphragm consisting of or containing chrysotile for use in an electrolyte cell in an electrolysis plant for chlor-alkali manufacture;
 - (c) a split face seal of at least 150 mm in diameter, consisting of or containing a mixture of chrysotile and a phenol formaldehyde resin or a cresylic formaldehyde resin;
 - (d) a vane for a rotary vacuum pump or a rotary compressor consisting of or containing a mixture of chrysotile and a phenol formaldehyde resin or a cresylic formaldehyde resin; or
 - (e) a thing the subject of an exemption under Schedule 1B of the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* of the Commonwealth,

or to work necessary to make ready one of those things for use after such storage.

- (6) Subregulation (1) does not apply —
 - (a) before 1 January 2005, in relation to the use of a compressed asbestos fibre gasket consisting of or containing chrysotile that is used as a gasket in plant in a process where it comes into contact with saturated steam, superheated steam or a dangerous substance; or
 - (b) on and from 1 January 2005, in relation to the use of the gasket if —

- (i) the use of the gasket and the asbestos in the gasket are the same as they were immediately before 1 January 2005; and
 - (ii) the gasket has not been moved from its location within the plant since immediately before 1 January 2005.
- (7) Subregulation (1) does not apply —
 - (a) before 1 January 2007, in relation to the use of a compressed asbestos fibre gasket consisting of or containing chrysotile that is used as a gasket in a plant in liquid chlorine service; or
 - (b) on and from 1 January 2007, in relation to the use of the gasket if —
 - (i) the use of the gasket and the asbestos in the gasket are the same as they were immediately before 1 January 2007; and
 - (ii) the gasket has not been moved from its location within the plant since immediately before 1 January 2007.
- (8) Subregulation (1) does not apply —
 - (a) before 1 January 2007, in relation to the use of a diaphragm consisting of or containing chrysotile that is used as a diaphragm in an electrolyte cell in an electrolysis plant for chlor-alkali manufacture that existed immediately before the day upon which these regulations come into operation; or
 - (b) on and from 1 January 2007, in relation to the use of the diaphragm if —
 - (i) the use of the diaphragm and the asbestos in the diaphragm are the same as they were immediately before 1 January 2007; and
 - (ii) the diaphragm has not been moved from its location within the plant since immediately before 1 January 2007.
- (9) Subregulation (1) does not apply —
 - (a) before 1 January 2008, in relation to the use of a split face seal of at least 150 mm in diameter, consisting of or containing a mixture of chrysotile and a phenol formaldehyde resin or a cresylic formaldehyde resin, that is used as a seal to prevent leakage of water from a cooling water pump in a fossil fuel powered electricity generating station; or
 - (b) on and from 1 January 2008, in relation to the use of the seal if —

- (i) the use of the seal and the asbestos in the seal are the same as they were immediately before 1 January 2008; and
 - (ii) the seal has not been moved from its location within the pump since immediately before 1 January 2008.
- (10) Subregulation (1) does not apply —
 - (a) before 1 January 2008, in relation to the use of a vane consisting of or containing a mixture of chrysotile and a phenol formaldehyde resin or a cresylic formaldehyde resin that is used as a vane for a rotary vacuum pump or a rotary compressor; or
 - (b) on and from 1 January 2008, in relation to the use of the vane if —
 - (i) the use of the vane and the asbestos in the vane are the same as they were immediately before 1 January 2008; and
 - (ii) the vane has not been moved from its location within the pump or compressor since immediately before 1 January 2008.
- (11) Subregulation (1) does not apply —
 - (a) before 1 January 2008, in relation to the use in plant of a thing consisting of or containing chrysotile that is the subject of an exemption under Schedule 1B of the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* of the Commonwealth; or
 - (b) on and from 1 January 2008, in relation to the use of the thing if —
 - (i) the use of the thing and the asbestos in the thing are the same as they were immediately before 1 January 2008; and
 - (ii) the thing has not been moved from its location within the plant since immediately before 1 January 2008.
- (12) In this regulation —
 - “**dangerous substance**” has the meaning given to the term “dangerous goods” in section 3 of the *Dangerous Goods (Transport) Act 1998*, or in any provision that on the repeal of that section corresponds to that definition;
 - “**use**” includes cleaning, maintaining, processing, producing and treating, but does not include removal and disposal of asbestos from the mine.

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By Command of the Lieutenant-Governor and
deputy of the Governor,

ROD SPENCER, Clerk of the Executive Council.
