

Bridge McFarland - Business News Article

Asbestos in Commercial Buildings Means Criminal Sanctions (czh/gpc)

The 'Control of Asbestos at Work Regulations 2002' came into force during 2004. Now all owners and most occupiers of commercial (non-domestic) and business premises have the duty to identify and manage any asbestos in their buildings. The new law requires owners to presume that asbestos is present unless there is evidence to prove that it is not.

The Regulations aim to protect anyone from exposure to asbestos during the course of their work. Failure to comply with them is a criminal offence, subject to Health and Safety Executive prosecution. Conviction can result in a fine imposed locally by magistrates, or imprisonment for up to 2 years or a fine, or both, in more serious cases. Directors of companies may also be prosecuted if they are shown to have consented or contributed to an offence. A good defence is to show that all reasonably practicable steps were taken to avoid committing the offence. Therefore if you own, occupy, manage or have responsibility for premises which may contain asbestos it is important that you:

1. inspect the premises to identify any asbestos containing material - keep a record of where it is, what condition it is in and the amount
2. assess the risk of the asbestos containing material - here it would be sensible to take professional advice and obtain a report in writing
3. plan how to manage the risk by putting in place an action plan - again professional guidance should be obtained and then followed
4. regularly review and monitor any identified risks until they have been eliminated keeping written records. It is also important to inform anyone who is liable to work on or disturb the material of the potential dangers - in writing again.

There is a great deal of useful information on the Health and Safety Executive's website at www.hse.gov.uk/asbestos. At Bridge McFarland our commercial property lawyers would be pleased to assist you to overcome any problems that are encountered.

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