



# Victoria Government Gazette

No. S 285 Tuesday 18 August 2009  
By Authority of Victorian Government Printer

## Dangerous Goods Act 1985 (Section 55)

### ORDER CONCERNING THE REMOVAL OF ASBESTOS FROM PREMISES DAMAGED IN THE 2009 VICTORIAN BUSHFIRES

#### Preamble

- A. The removal of asbestos at workplaces is regulated by the Occupational Health and Safety Regulations 2007 (the OHS Regulations). The OHS Regulations describe the circumstances in which asbestos may be removed by an employer or self-employed person who holds a removalist licence under the OHS Regulations, and the circumstances in which an unlicensed employer or self-employed person may conduct a limited amount of removal work.
- B. Generally, the provisions of the OHS Regulations that regulate the removal of asbestos are limited in their application to asbestos-containing material that is fixed to or installed in a building, structure, ship or plant. They generally do not apply to the removal of asbestos that is not so fixed or installed (including asbestos-contaminated dust).
- C. An Order Prohibiting the Removal of Certain Asbestos at Workplaces ('the 2007 Asbestos Order') was published in the Government Gazette on 28 June 2007 (see General Gazette G 26, 28 June 2007). It came into effect on 1 July 2007. That Order, subject to conditions and restrictions, prohibits the removal of asbestos that is not fixed or installed (including asbestos-contaminated dust).
- D. February 2009 saw Victoria experience the most destructive bushfires in its history ('the 2009 bushfires'), which destroyed vast areas of bush, causing millions of dollars of property damage and killing or injuring hundreds of people. Many of the properties destroyed or damaged were constructed, at least in part, with asbestos-containing materials such as asbestos cement sheeting.
- E. To assist with this emergency and the rebuilding of those towns and premises burnt by the 2009 bushfires, and in the interest of public safety the Order Concerning the Removal of Asbestos Damaged in the 2009 Victorian Bushfires (the February 2009 DGO Order) was published in the Victoria Government Gazette on 16 February 2009. This Order was made under section 55 of the **Dangerous Goods Act 1985** to enable the expeditious removal of any asbestos from premises damaged or destroyed by those fires while maintaining appropriate standards of safety.
- F. The February 2009 DGO Order came into operation on 16 February 2009 and expires on 17 August 2009, 6 months after that date.
- G. The rebuilding of the towns and premises burnt by the 2009 bushfires has not been completed and asbestos removal work is continuing. A further temporary DGO Order is needed in similar terms as provided by the February 2009 DGO Order to allow the expeditious removal of any asbestos from premises damaged or destroyed by those fires to continue while maintaining appropriate standards of safety.
- H. The exemption set out in Clause 2(a) of the February 2009 DGO Order in respect of holders of a licence or approval equivalent to a Class A or B asbestos removal licence issued by a corresponding Authority has been omitted from the further temporary DGO Order as licensed asbestos removalists from interstate are no longer needed to augment the supply of Victorian licensed removalists.

**SPECIAL**

### Order

Being of the opinion that it is expedient for the public safety to do so, the Lieutenant-Governor, as the Governor's Deputy, with the advice of the Executive Council, under section 55 of the **Dangerous Goods Act 1985** makes the following Order –

1. The removal of asbestos from any premises that has been damaged in the 2009 bushfires, whether or not that asbestos is fixed to or installed in a building, structure, ship or plant at those premises ('asbestos removal'), and that is a workplace, is prohibited.
2. Subject to clause 3, the prohibition under clause 1 does not apply in relation to asbestos removal from a workplace –
  - (a) by an employer or self-employed person who is the holder of a Class A asbestos removal licence or a Class B asbestos removal licence; or
  - (b) by an employee of such a licence-holder; or
  - (c) by a person who is assisting such a licence-holder or employee, provided that assistant is strictly supervised by the licence-holder or employee.
3. A person described in clause 2 may only undertake asbestos removal if that person complies with the following –
  - (a) asbestos removal (including the collection and disposal of waste) must be carried out in a manner that prevents the release of airborne asbestos fibres, so far as is reasonably practicable;
  - (b) appropriately placed signs and barricades must be used to indicate the area where asbestos removal is being performed;
  - (c) water-runoff of asbestos-contaminated water must be prevented so far as is reasonably practicable;
  - (d) persons carrying out asbestos removal must be provided with appropriate protective clothing and equipment, such as Australian Standard approved respiratory protection and disposable coveralls;
  - (e) persons carrying out asbestos removal must be instructed on safe work methods and procedures;
  - (f) decontamination facilities must be available and used for the decontamination of equipment, tools, clothing and for personal decontamination;
  - (g) a visual inspection must be carried out on completion of the asbestos removal to ensure that there is no visible asbestos residue remaining as a result of the removal work.
4. In the event of an inconsistency between this Order and the 2007 Asbestos Order, or between this Order and the OHS Regulations, this Order prevails to the extent of that inconsistency.
5. This Order comes into operation on the date it is published in the Government Gazette and expires 6 months after that date.
6. In this Order –
  - '**asbestos**' has the same meaning as in the OHS Regulations;
  - '**asbestos-containing material**' has the same meaning as in the OHS Regulations;
  - '**Authority**' has the same meaning as in the OHS Act;
  - '**Class A asbestos removal licence**' has the same meaning as in the OHS Regulations;
  - '**Class B asbestos removal licence**' has the same meaning as in the OHS Regulations;
  - '**employer**' has the same meaning as in the OHS Act;
  - '**employee**' has the same meaning as in the OHS Act;

**‘OHS Act’** means the **Occupational Health and Safety Act 2004**;

**‘OHS Regulations’** means the Occupational Health and Safety Regulations 2007;

**‘plant’** has the same meaning as in the OHS Act;

**‘removal’** means transfer for the purpose of subsequent disposal;

**‘self-employed person’** has the same meaning as in the OHS Act;

**‘workplace’** has the same meaning as in the OHS Act.

Dated 18 August 2009

Responsible Minister

TIM HOLDING MP

Minister for Finance, WorkCover

and the Transport Accident Commission

TOBY HALLIGAN  
Clerk of the Executive Council

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Level 2 1 Macarthur Street  
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**Telephone**

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**Fax**

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**email**

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