

**LEAFLET 40****ASBESTOS PROHIBITIONS****CONTENTS**

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**LEAFLET FOR LINE MANAGERS****INTRODUCTION**

- 1 The purpose of this leaflet is to:
  - 1.1 Remind all personnel of Secretary of State's Policy on the elimination of asbestos
  - 1.2 Remind staff of the coming into force of the Asbestos (Prohibitions) (Amendment) Regulations 1999 (SI 2373/99)
  - 1.3 Provide the detailed guidance to MOD on compliance with the conditions of the defence exemption

## SECRETARY OF STATE'S POLICY ON THE ELIMINATION OF ASBESTOS

### Activity within MOD

2 The MOD is committed to eliminating all defence equipment uses of all forms of asbestos, including chrysotile and is actively seeking the support of the UK Defence Industry to do the same. To effect this SofS has authorised the Restricted Materials Steering Group, (RMSG) formerly known as the Asbestos Elimination Steering Group, (AESG), to act on his behalf to determine and manage an elimination programme and report progress to him annually.

3 The elimination programme requires:

- 3.1 The identification of all uses of asbestos;
- 3.2 The production & maintenance (by the RMSG) of a "locations" data base;
- 3.3 A risk assessment; and
- 3.4 The production of an elimination programme for each use.

4 The object of the elimination programme is to eliminate, where practicable and as soon as possible, the use of chrysotile in new equipment and to reduce the risk of exposure to chrysotile in delivered (in use) equipment to As Low As Reasonably Practicable (ALARP). The elimination policy does not require as a matter of course, the removal of asbestos from in use equipment. Only where the presence of asbestos presents a significant risk to the operator, maintainer (or other affected persons) is its removal mandated. However, in furtherance of the ALARP principles the elimination programme should take advantage of maintenance periods and mid life updates to substitute the asbestos with a less hazardous material provided its removal does not cause significant risk to the worker carrying out the removal activity.

### Contract Action

5 The MOD does not condone the incorporation of chrysotile within any Article supplied to it where there is a suitable alternative. DEFCON 624 has been updated to reflect the changes in the Prohibition Regulation. Any person connected with a contract to supply the MOD should note the requirements of the Asbestos (Prohibitions) Regulation ('the Regulations'), and should act accordingly, noting that MOD seeks to eliminate, wherever practicable and as soon as possible, all asbestos at the earliest opportunity, as required by 'the Regulations'.

## THE ASBESTOS (PROHIBITIONS) REGULATIONS

### Background

6 The Asbestos (Prohibitions) Regulations 1992 already prohibit the importation, supply and use of blue (crocidolite) and brown (amosite) asbestos (amphiboles), together with three other little-used amphibole asbestos types and certain uses of white asbestos or chrysotile. In May 1999 Member States of the European Union voted for an adaptation to technical progress to the Marketing and Use Directive which would prohibit the marketing and use of chrysotile throughout the EU after 1 January 2005. This Directive was formally adopted by the European Commission in July 1999. The Asbestos (Prohibitions) (Amendment) Regulations 1999 (SI 2373/99) were made on 24 August 1999 and come into force on 24 November. The new Regulations extend the 1992 Regulations by prohibiting the importation of chrysotile into the United Kingdom, and its supply and use within Great Britain.

### Activities which are not banned by the Regulations

7 The Regulations permit:

- 7.1 The supply of chrysotile for the purpose of disposal;

7.2 The importation, supply and use of chrysotile for the purpose of research, Development and analysis;

7.3 The use of those products containing chrysotile which were in use before the Regulations came into force, until the end of their service life.

8 Additionally there are some time limited derogations, based on suppliers commitments to produce non-asbestos substitutes, that permit the continued use of chrysotile until the date specified by the derogation. In effect, the end date for each derogation is that by which manufacturers and suppliers have confirmed that they will be able to supply non-asbestos substitutes for the derogated product.

### **Definition of supply**

9 The definition of “supply” includes sale, lease, hire, hire purchase, loan, gift or exchange for a consideration other than money.

### **Supply and use of products containing chrysotile**

10 The supply and use of products containing chrysotile, which were in use before the date the Regulations came into force, are permitted. This allows, for example, ships, aircraft, munitions etc. to be re-sold without the need to remove the asbestos components. It also means that chrysotile components, such as seals and gaskets, which were in use before the Regulation came into force, do not need to be replaced with non-asbestos components until they reach the end of their service life.

### **Definition of “in use”**

11 Equipment held in reserve and in stores is an integral part of the defence capability and whilst this equipment is not physically being used, the Department have decided that for the purpose of applying “the Regulations” items held in reserve and in store are classed as *in use*. Therefore, items which are held in store, that were delivered to MOD before 24 November 1999, and items purchased for storage but delivered to MOD after 24 November 1999, under the authority of the exemption, can be supplied for use. This decision has been taken on the understanding that chrysotile containing items held in store will be identified and a robust elimination programme will be developed for each use. It follows that chrysotile containing components such as gaskets, bearings etc. for which there are suitable alternatives should be replaced forthwith. The RMSG will review all elimination programmes.

## **COMPLIANCE WITH DEFENCE EXEMPTIONS UNDER THE ASBESTOS (PROHIBITIONS) REGULATIONS 1992**

### **Introduction**

12 The Regulations enable the Secretary of State for Defence (SofS) to grant exemptions to specified persons, in the interest of national security, including any persons connected with the production of, or trade in arms, munitions or war materials from all or any of the requirements or prohibitions imposed by regulations 3(2), 7(1), 7(2) and 7(3).

13 Notwithstanding the SofS’s power to grant exemptions from the Regulations, in the interests of national security, the use of chrysotile within the MOD continues to be strictly controlled in accordance with all relevant health, safety and environmental legislation, and the highest priority continues to be given to protecting the health and safety of all MOD employees and any others affected by MOD’s activities. These principles equally apply to work carried out under the authority of the defence exemption which results in the export of the defence equipment for the UK. This requires all reasonable steps to be taken by the exporter to alert the export customer to the presence of chrysotile and provide advice on its safe handling and disposal.

### Scope of Exemption Authority

14 The SofS has decided that it is in the interests of national security that he exercises his power to grant certain exemptions in relation to the production of or trade in arms, munitions or war materials incorporating chrysotile. Consequently, the SofS has issued three generic Certificates exempting, subject to certain conditions, all persons connected with such production or trade from regulations 3(2), 7(1), 7(2) and 7(3), where those arms etc. are intended for:

- 14.1 Use by the UK MOD; or
- 14.2 Export from the United Kingdom; or
- 14.3 Fulfilment of any Agreement between the UK Government and another Government.

15 The expression “all persons connected with the production of, or trade in arms, munitions and war materials....” includes those persons engaged in the research, development, trial, testing, manufacture and maintenance of such arms etc., as well as the purchase, supply, exchange, import and export thereof.

### Timing

16 The SofS’s power to grant exemption is not time limited by the Regulation. The certificates of exemption granted by the SofS will take effect immediately upon the coming into force of the Regulations (24 November 1999) and will expire no later than 23 November 2001. During this time the commitment to find suitable alternatives (see para 19) and progress towards elimination of the use of chrysotile will be monitored and only if the SofS is satisfied that it would still be in the interests of national security to grant further certificates of exemption thereafter will he do so. SofS may vary or revoke the certificates of exemption at any time by a certificate in writing.

### Exemption Process

17 The exemption process makes provision for the MOD to maintain both its commitment to national security and to the elimination of chrysotile from defence equipment. The responsibility for demonstrating compliance with the terms and conditions of the exemption process rests with the persons operating under the exemption and not with the Department. The exemption process does not require the Department to confirm compliance with the conditions. It is essential that persons operating under the cover of the exemption do not use the exemption as a device for delaying the onset of, or reduction in, funding of research and development programmes necessary to identify alternative materials or technologies.

18 Where any person wishes to rely upon an exemption granted by the SofS which is *conditional* upon there being no suitable alternative to the use of chrysotile in the arms etc., that person must be able to demonstrate, if challenged to do so, that he has taken all reasonable steps to identify a suitable alternative. Used in this context, a “suitable alternative” is a non-asbestos product which will perform reliably and adequately the function performed by the chrysotile product. An alternative non-asbestos product would not be deemed suitable if:

- 18.1 The consequence of failure of the non-asbestos replacement could lead to increased risk to health and safety or the environment.
- 18.2 The non-asbestos product is not fully tested and approved for the specified function in time to satisfy the acquisition programme, without incurring unacceptable delays.
- 18.3 The increased cost of obtaining an alternative product adversely affects the defence capability.

19 The high cost of identifying and developing an alternative is not in itself sufficient justification for the continued use of chrysotile.

20 The Health and Safety Executive (HSE) will in the normal course of duty monitor observance of the Regulation and, in the event of finding chrysotile in use, will expect to find demonstrable evidence of compliance with all appropriate legislation, including the conditions detailed in the SofS's certificates of exemption. SofSs exemption does not impede the HSE's powers to enforce the Regulation and/or prosecute for non compliance with the Regulation. 20.

21 All correspondence for SofS on these matters should be sent to: The Secretariat of the RMSG, Ash 3c/P25d, #3311, MOD Abbey Wood, BRISTOL, BS34 8JH.

## **CERTIFICATES OF EXEMPTION – REQUIREMENTS FOR COMPLIANCE**

### **NOTE**

Failure to satisfy the requirements outlined below will invalidate the exemption

### **Persons connected with the production of, or trade in arms, munitions or war materials intended for use by Her Majesty's Forces**

22 The Integrated Project Team Leader/Project Manager (IPTL/PM) is required to justify the continued supply of chrysotile by signing a declaration that there is no suitable alternative to the use of chrysotile and submit the justification to the RMSG Secretariat. Instructions on the content and format of the submission are contained in ANNEX B. To support this statement, the IPTL/PM would be expected to seek technical advice from all relevant contractors in the supply chain.

23 For Articles in the course of manufacture on the 24th November 1999, if there is no possibility of substituting the chrysotile components for suitable alternatives in time to meet contracted delivery dates, the IPTL/PM must justify exemption. If exemption has not been justified, the supply and use of those Articles may constitute an illegal act.

24 Should an alternative substance become available during the lifetime of the contract, the contractor must determine whether the substance is technically suitable and inform the Authority immediately he has made this determination. The IPTL/PM must then determine, by reference to the contractual programme etc., whether the alternative is suitable in all respects. During the period of this determination the IPTL/PM may require the contractor to suspend further production, if practicable, thereby demonstrating MOD's commitment to eliminating all chrysotile where practicable and as soon as possible. The exemption will cover the MOD's and the Contractor's activities until such time as the IPTL/PM confirms the alternative substance to be suitable, at which time the contract should be amended accordingly. Should the IPTL/PM consider that the alternative is not suitable he may need to resubmit his Justification to the RMSG Secretariat, and the new Justification Form serial number should be amended into the contract forthwith. As soon as a potentially suitable alternative to chrysotile becomes available, the IPTL/PM and the Contractor cannot rely upon the cover of the exemption to delay implementing the alternative, and action must be taken quickly to avoid either party being placed in a position where he may be acting illegally.

25 For new contracts to be placed after 24<sup>th</sup> November 1999, where it is known that chrysotile - containing Articles are to be supplied and there is no suitable alternative, the IPTL/PM must justify a case for exemption prior to contract placement.

### **Persons connected with the production of, or trade in arms, munitions or war materials for export from the United Kingdom (other than for the fulfilment of any agreement between the United Kingdom Government and another Government) Requirements**

26 The Department is determined to ensure that all reasonable steps have been taken by persons operating under the cover of the exemption to limit the risks of exposure to chrysotile. To this end, the supplier (namely the exporter) is required to identify the presence and location of chrysotile in all exports and provide the export customer with hazard information in the form of Safety Data Sheets. The Safety Data Sheets should, where applicable, contain information on:

26.1 Identification of the substance/preparation and company

- 26.2 Composition/information on ingredients
  - 26.3 Hazard identification
  - 26.4 First-aid measures
  - 26.5 Fire-fighting measures
  - 26.6 Accidental release measures
  - 26.7 Handling and storage
  - 26.8 Exposure controls/personal protection
  - 26.9 Physical and chemical properties
  - 26.10 Stability and reactivity
  - 26.11 Toxicological information
  - 26.12 Ecological information
  - 26.13 Disposal considerations
  - 26.14 Transport information
- 27 This places the same requirement on supply for export as exists for the UK market.
- 28 The supplier is also required to:
- 28.1 Notify the RMSG Secretariat of all instances where the defence exemption is being invoked;
  - 28.2 Provide a *once for all time* written statement of the commitment to the elimination of chrysotile from defence equipment wherever practicable and as soon as possible; and
  - 28.3 Supply a verifiable statement, *for each contract*, that there is no suitable alternative to the use of chrysotile to be supplied under that contract, and that all reasonable steps will be taken by the supplier to alert the export customer to the presence of chrysotile and to provide advice on its safe handling and disposal.
- 29 Written statements should be submitted on the justification proforma to the RMSG Secretariat in accordance with the instructions contained in ANNEX C. To support this statement, the supplier would be expected to seek technical advice from all relevant contractors in the supply chain and to inform all suppliers of his commitment to eliminate chrysotile where practicable and as soon as possible. In addition, the supplier will be required to provide any information relevant to this exemption that the Department may require from time to time.
- 30 For Articles in the course of manufacture on the 24<sup>th</sup> November 1999, if there is no possibility of substituting the chrysotile components for suitable alternatives in time to meet contracted delivery dates, the exporter must justify exemption. If exemption has not been justified, the supply and use of those Articles may constitute an illegal act.

31 Should an alternative substance become available during the lifetime of the contract, the exporter must determine whether that substance is a suitable alternative and inform the RMSG Secretariat immediately he has made this determination, thereby demonstrating his commitment to eliminating all chrysotile as soon as possible. The exemption will cover the exporter's activities until such time as the substance can be confirmed as a suitable alternative, at which time the contract should be amended accordingly. Should the exporter consider that the alternative is not suitable he may need to resubmit his Justification to the RMSG Secretariat, and the new Justification Form serial number should be amended into the contract forthwith. As soon as a potentially suitable alternative to asbestos becomes available, the exporter cannot rely upon the cover of the exemption to delay implementing the alternative, and action must be taken quickly to avoid either party being placed in a position where he may be acting illegally.

32 For new contracts to be placed after 24<sup>th</sup> November 1999, where it is known that chrysotile containing -Articles are to be supplied and there is no suitable alternative, the exporter must justify a case for exemption prior to contract placement.

33 All other persons relying upon the cover of this Certificate of Exemption must be able to demonstrate, if challenged to do so, that all reasonable steps have been taken to identify a suitable alternative to the use of chrysotile in the arms, munitions or war materials to be exported.

**Persons connected with the production of, or trade in arms, munitions or war materials for the fulfilment of any agreement between the United Kingdom Government and another Government**

34 The MOD Project Office, acting as the supplier of the chrysotile item to the foreign government, is required to justify the continued supply of chrysotile by signing a declaration that there is no suitable alternative to the use of chrysotile and submit the Justification to the RMSG Secretariat. Instructions on the content and format of the submission are contained in ANNEX B. To support this statement, the MOD Project Office would be expected to seek technical advice from all relevant contractors in the supply chain.

35 For Articles in the course of manufacture on the 24<sup>th</sup> November 1999, if there is no possibility of substituting the chrysotile components for suitable alternatives in time to meet contracted delivery dates, the MOD Project Office must justify exemption. If exemption has not been justified, the supply and use of those Articles may constitute an illegal act.

36 Should an alternative substance become available during the lifetime of the contract, the contractor must determine whether the substance is technically suitable and inform the Authority immediately he has made this determination. The MOD Project Office must then determine, by reference to the contractual programme etc., whether the alternative is suitable in all respects. During the period of this determination the MOD Project Office may require the contractor to suspend further production, if practicable, thereby demonstrating MOD's commitment to eliminating all chrysotile as soon as possible. The exemption will cover the MOD's and the Contractor's activities until such time as the MOD Project Office confirms the alternative substance to be suitable, at which time the contract should be amended accordingly. Should the MOD Project Office consider that the alternative is not suitable he may need to resubmit his Justification to the RMSG Secretariat, and the new Justification Form serial number should be amended into the contract forthwith. As soon as a potentially suitable alternative to chrysotile becomes available, the MOD Project Office and the Contractor cannot rely upon the cover of the exemption to delay implementing the alternative, and action must be taken quickly to avoid either party being placed in a position where he may be acting illegally.

37 For new contracts to be placed after 24<sup>th</sup> November 1999, where it is known that chrysotile -containing Articles are to be supplied and there is no suitable alternative, the MOD Project Office must justify a case for exemption prior to contract placement.

## LEAFLET 40 ANNEX A

### ASBESTOS PROHIBITIONS

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#### GUIDANCE FOR LINE MANAGERS

##### CERTIFICATES OF EXEMPTION

###### Appendix 1

1 Certificate of Exemption for persons connected with the production of, or trade in arms, munitions or war materials intended for use by Her Majesty's Forces.

###### Appendix 2

2 Certificate of Exemption for persons connected with the production of, or trade in arms, munitions or war materials for export from the United Kingdom (other than for the fulfilment of any agreement between the United Kingdom Government and another Government).

###### Appendix 3

3 Certificate of Exemption for persons connected with the production of, or trade in arms, munitions or war materials for the fulfilment of any agreement between the United Kingdom Government and another Government.

**LEAFLET 40 ANNEX A APPENDIX 1****ASBESTOS PROHIBITIONS****THE ASBESTOS (PROHIBITIONS) REGULATIONS 1992<sup>1</sup>, AS AMENDED BY THE ASBESTOS (PROHIBITIONS) (AMENDMENT) REGULATIONS 1999<sup>2</sup>****CERTIFICATE OF EXEMPTION****NOTE**

For persons connected with the production of, or trade in arms, munitions or war materials intended for use by Her Majesty's Forces

1 In accordance with the power vested in me by virtue of regulation 8(3) of the Asbestos (Prohibitions) Regulations 1992, as amended by the Asbestos (Prohibitions) (Amendment) Regulations 1999, ("the Regulations"), I hereby exempt, in the interests of national security:

1.1 Her Majesty's Forces and all visiting forces which fall within the meaning of any provision of Part I of the Visiting Forces Act 1952<sup>3</sup>, from all of the requirements and prohibitions imposed by the Regulations; and

1.2 All other persons connected with the production of, or trade in arms, munitions or war materials, incorporating chrysotile asbestos, for use by Her Majesty's Forces, from all of the requirements and prohibitions imposed by regulations 3(2), 7(1), 7(2) and 7(3) of the Regulations, on condition that there is no suitable alternative to the use of chrysotile asbestos in such arms, munitions or war materials which would meet the requirements of Her Majesty's Forces, as specified by the Ministry of Defence.

2 I may vary or revoke this Exemption at any time by a certificate in writing, and in any event this Exemption shall expire no later than [2 years from the date of issue].

**Signed**

**Secretary of State for Defence**

**Date**

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<sup>1</sup> S.I.1992/3067.

<sup>2</sup> S.I.1999/2373.

<sup>3</sup> 1952c.67.

**LEAFLET 40 ANNEX A APPENDIX 2****ASBESTOS PROHIBITIONS****THE ASBESTOS (PROHIBITIONS) REGULATIONS 1992<sup>1</sup>, AS AMENDED BY THE ASBESTOS (PROHIBITIONS) (AMENDMENT) REGULATIONS 1999<sup>2</sup>****CERTIFICATE OF EXEMPTION****NOTE**

For persons connected with the production of, or trade in arms, munitions or war materials for export from the United Kingdom (other than for the fulfilment of any agreement between the United Kingdom Government and another Government)

1 In accordance with the power vested in me by virtue of regulation 8(3) of the Asbestos (Prohibitions) Regulations 1992, as amended by the Asbestos (Prohibitions) (Amendment) Regulations, ("the Regulations"), I hereby exempt, in the interests of national security, all persons connected with the production of, or trade in arms, munitions or war materials, incorporating chrysotile asbestos, intended for export from the United Kingdom (other than for the fulfilment of any agreement between the United Kingdom Government and another Government), from all of the requirements and prohibitions imposed by regulations 3(2), 7(1), 7(2) and 7(3) of the Regulations, on condition that:

1.1 There is no suitable alternative to the use of chrysotile asbestos in the arms, munitions or war materials to be exported; and

1.2 That the supplier (namely the exporter of the arms, munitions or war materials) has provided me, in writing, with:

1.2.1 A commitment to eliminate the use of chrysotile asbestos, wherever practicable and as soon as possible,

1.2.2 A verifiable statement, for each contract, that there is no suitable alternative to the use of chrysotile asbestos in the arms, munitions or war materials to be supplied under that contract, and that all reasonable steps will be taken to alert the export customer to the presence of chrysotile and to provide advice on its safe handling and disposal; and

1.2.3 Any other information relevant to this exemption which I may require, from time to time.

2 I may vary or revoke this Exemption at any time by a certificate in writing, and in any event this Exemption shall expire no later than [2 years from the date of issue].

**Signed****Secretary of State for Defence****Date**

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<sup>1</sup> S.I.1992/3067.

<sup>2</sup> S.I.1999/2373.

**LEAFLET 40 ANNEX A APPENDIX 3****ASBESTOS PROHIBITIONS****THE ASBESTOS (PROHIBITIONS) REGULATIONS 1992<sup>1</sup>, AS AMENDED BY THE ASBESTOS (PROHIBITIONS) (AMENDMENT) REGULATIONS 1999<sup>2</sup>****CERTIFICATE OF EXEMPTION****NOTE**

For persons connected with the production of, or trade in arms, munitions or war materials for the fulfilment of any agreement between the United Kingdom Government and another Government

1 In accordance with the power vested in me by virtue of regulation 8(3) of the Asbestos (Prohibitions) Regulations 1992, as amended by the Asbestos (Prohibitions) (Amendment) Regulations 1999, ("the Regulations"), I hereby exempt, in the interests of national security, all persons connected with the production of, or trade in arms, munitions or war materials, incorporating chrysotile asbestos, for the purpose of fulfilling the terms of any Agreement between the Government of the United Kingdom and any other Government, from all of the requirements and prohibitions imposed by regulations 3(2), 7(1), 7(2) and 7(3) of the Regulations, on condition that there is no suitable alternative to the use of chrysotile asbestos in such arms, munitions or war materials which would meet the requirements of that Agreement, as specified by the Ministry of Defence.

2 I may vary or revoke this Exemption at any time by a certificate in writing, and in any event this Exemption shall expire no later than [2 years from the date of issue].

**Signed****Secretary of State for Defence****Date**

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<sup>1</sup> S.I.1992/3067.

<sup>2</sup> S.I.1999/2373.

**LEAFLET 40 ANNEX B****ASBESTOS PROHIBITIONS**

Para

**USE BY HM FORCES AND INTERGOVERNMENTAL AGREEMENTS**

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**USE BY HM FORCES AND INTERGOVERNMENTAL AGREEMENTS****JUSTIFICATION FOR THE CONTINUED USE OF CHRYSOTILE IN ARMS, MUNITIONS OR WAR MATERIAL FOR USE BY HER MAJESTY'S FORCES AND FOR THE FULFILMENT OF ANY AGREEMENT BETWEEN THE UNITED KINGDOM GOVERNMENT AND ANOTHER GOVERNMENT****GENERAL**

- 1 MOD IPTLs operating under the authority of the defence exemption to enable the continued use of chrysotile in arms, munitions or war material for use by Her Majesty's Forces must meet the conditions detailed in the Certificate of Exemption, Annex A - Appendix 1.
- 2 MOD Project Offices operating under the authority of the defence exemption to enable the fulfilment of any agreement between the UK Government and another Government of arms, munitions or war material must meet the conditions detailed in the Certificate of Exemption, Annex A - Appendix 3.
- 3 MOD IPTLs/MOD Project Offices, the procurement authority of the arms etc, are required to register with the RMSG all instances where the defence exemption has been invoked. This should be done by completing one of the attached justification proformas, in accordance with the instructions detailed below, and submit it to:

The Secretariat of the RMSG  
Ash 3c/P25d, #3311  
MOD Abbey Wood,  
BRISTOL,  
BS34 8JH

- 4 The proforma headed "Justification for supply of Chrysotile within Systems" should be used where known (or suspected) chrysotile containing items are in the one system. The proforma headed "Justification for supply of Chrysotile items" should be used where the item procured supports one or more systems.
- 5 In signing off the relevant justification proforma the Authorising officer is confirming that he is aware of the MOD programme to eliminate the use of chrysotile from defence equipment and has taken all reasonable steps, including consultation with the relevant contractors in the supply chain, to identify substitutes for the chrysotile component(s) listed and is satisfied that there is no suitable alternative to this/these component(s).

6 On receipt of the completed justification proforma the RMSG Secretariat will allocate a unique Serial Number and return a photocopy of the proforma to the Authorising officer. The return of the justification proforma acknowledges that the defence exemption has been invoked by the MOD IPTLs/MOD Project Offices and all contractors in the supply chain. It does not indicate approval by the RMSG that the terms and conditions of the Exemption Certificate have been met.

7 Notification that the justification proforma has been acknowledged by the RMSG should be promulgated, along with the Serial Number of the justification, to all companies in the supply chain.

## **GUIDANCE ON COMPLETING THE JUSTIFICATION PROFORMA**

### **Serial Number**

8 The Serial Number will be unique to the justification and will be allocated by the RMSG Secretariat on receipt.

### **Contract Number**

9 The Contract Number will be used by the RMSG Secretariat in compiling a database.

### **Column 1**

10 *Unique identification.* Enter the identification (e.g. NATO STOCK NUMBER) of the system, or subsystem or item that contains the chrysotile component(s).

### **Column 2**

11 *Description.* Enter a brief description of the System or item e.g. missile; gasket.

### **Column 3**

12 *List of chrysotile containing items/fitted to.*

12.1 For the System Proforma : List all components within the system that contain chrysotile.

12.2 For the Item Proforma : List all systems that have a use for the chrysotile item.

### **Column 4**

13 *Justification for continued use.* Examples of Justification are:

13.1 A non-asbestos alternative has been identified but will not be available until DDMMYYYY. The use of the asbestos material remains crucial to the maintenance of full service capability until the replacement is available.

13.2 A non-asbestos alternative has been identified but a modification programme to fit the new design to the equipment could not be completed within the planned service life of the equipment, which is to end DDMMYYYY. The use of the asbestos material remains crucial to the maintenance of full service capability until that date.

13.3 To date, technical investigations have failed to find a suitable non-asbestos alternative to this item, capable of maintaining the inherent safety of the equipment e.g. braking/fire prevention/containment of steam. The planned service life of the equipment is to end DDMMYYYY. To maintain full service capability until that date, or until a suitable alternative item is found, it is essential that the original asbestos components be used.

13.4 A non-asbestos alternative cannot be identified within the planned service life, which is to end DDMMYYYY, because current technology does not provide a solution (explain as necessary). To maintain full service capability until that date asbestos components must still be used.

13.5 A non-asbestos alternative has been identified but the cost of a modification programme to fit the new design to the equipment could not be justified on the remaining life of the equipment. The planned service life of the equipment is to end DDMMYYYY. To maintain full service capability until that date asbestos components must still be used.

14 The examples given above are as a guide and are by no means exhaustive.

**Column 5**

15 *Impact statement.* Examples of Impact Statements are:

15.1 A prohibition on supplying this item would lead to a guaranteed loss of capability.

15.2 A prohibition on supplying this item would make the system unsafe to the operator.

15.3 A prohibition on supplying this item would affect operational readiness.

16 The examples given above are as a guide and are by no means exhaustive.

**Column 6**

17 *Additional information.* This column can be used for any additional information required to support the justification. E.g. Information on other sales orders or exports of this/these product(s) to other countries.

**Risk assessment.**

18 The justification must include an assessment of the risks associated with the equipment specified. In addition the countersigning authority is confirming that "All precautions.....Act 1974".

**Security classification**

19 Care should be taken on the information provided in terms of security and commercial classifications and the form be annotated accordingly.

**NOTE**

RESPONSIBILITY FOR THE ACCURACY AND INTEGRITY FOR ALL INFORMATION ON THE FORM IS ACCEPTED BY THE AUTHORISING SIGNATORY.

**EXAMPLE**

**JUSTIFICATION FOR SUPPLY OF CHRYSOTILE WITHIN SYSTEMS**

**SERIAL NO :**

Contract Number: xxxxx-1999. Purpose of Contract: (Follow on buy of Missiles)

UNIQUE IDENTIFICATION	DESCRIPTION	LIST OF CHRYSOTILE CONTAINING ITEMS (NSN) (DESCRIPTION)		JUSTIFICATION FOR CONTINUED USE (Include : Date of Final Delivery)	IMPACT STATEMENT ( IF EXEMPTION IS REMOVED)	ADDITIONAL INFORMATION
1410-99-123-4567	Missile X	2W 123456	Blast Pipe/Nozzle Assembly	There is an operational requirement to use Mod 4 missiles until their replacement by Mod 5 missiles. Demands for training and the life expiry of existing Mod 3 missiles will result in serviceable missile stocks falling below the War Reserve levels. A follow on buy of new and refurbished missiles will prevent this. Concept studies for the Integrated Ground based Air Defence System, which includes a Mod 5 asbestos free missile are due to start in Jan 2000. Mod 5 missiles will enter service in 2006; it is intended to use all Mod 4 missiles by the end of 2010. Date of Final Delivery: July 2005	Guaranteed loss of capability. Although possible alternative materials are being investigated, these materials are known to have inferior properties compared to asbestos. Consequently, the use of alternatives will necessitate major design changes, not only to the Rocket Motor, but also to the missile control systems. These design changes will require extensive development and proof testing to meet the stringent safety criteria set down by the MOD. The missile Design Authority has estimated that changes to the Rocket Motor and control systems would take between 4 and 5 years to complete at a cost of £20M.	Export orders are being pursued to supply Mod 4 missiles to 4 Foreign Governments.
		2W 567890	Closure Assembly			

RISK ASSESSMENT

All precautions will be taken in the handling and possible exposure to any asbestos in accordance with "The Control of Asbestos at Work Regulations 1987 etc" (amended in 1999) and the "Health and Safety at Work etc Act 1974". Once moulded into their final components for the X rocket motor, the chrysotile asbestos fibres are bound by the cured phenolic resin (i.e. in the Durestos form), consequently, throughout their life there are minimal safety risks associated with storage and handling.

DECLARATION OF COMMITMENT

No suitable alternative is available for the items identified above.

All suppliers of the above mentioned asbestos containing components have been made aware of the MOD's commitment to eliminating asbestos from these components as soon as is practicable.

Prepared by: Name: ..... Signature:..... Date:..... Post:..... Dept:..... Tel No:.....

Authorised by: Name: ..... Signature:..... Date:..... Post:..... Dept:..... Tel No:.....

### EXAMPLE

**JUSTIFICATION FOR SUPPLY OF CHRYSOTILE ITEMS**

**SERIAL NO :**

Contract Number: xxxxx-1999. Purpose of Contract: (e.g. Procurement of Maintenance Spares .)

UNIQUE IDENTIFICATION	DESCRIPTION Brief description of component.	FITTED TO: <i>List all systems that incorporate the component.</i>	JUSTIFICATION FOR CONTINUED USE (Include : Date of Final Delivery)	IMPACT STATEMENT ( IF EXEMPTION IS REMOVED) <i>Loss of capability.</i>	ADDITIONAL INFORMATION
	<i>e.g</i>				
	Seal				
	Gasket				
	Tape...etc.				

RISK ASSESSMENT

All precautions will be taken in the handling and possible exposure to any asbestos in accordance with "The Control of Asbestos at Work Regulations 1987 etc" (amended in 1999) and the "Health and Safety at Work etc Act 1974".

DECLARATION OF COMMITMENT

No suitable alternative is available for the items identified above.

All suppliers of the above mention asbestos containing components have been made aware of the MOD's commitment to eliminating asbestos from these components as soon as is practicable.

Prepared by: Name: ..... Signature:..... Date:..... Post:..... Dept:..... Tel No:.....

Authorised by: Name: ..... Signature:..... Date:..... Post:..... Dept:..... Tel No:.....

**LEAFLET 40 ANNEX C**

**ASBESTOS PROHIBITIONS**

**JUSTIFICATION PROCEDURES FOR EXPORT**

**APPENDIX 1**

1 Justification for the continued use of chrysotile in arms, munitions or war material for export from the UK

**APPENDIX 2**

2 Sample Letter - Exporters

**LEAFLET 40 ANNEX C APPENDIX 1****ASBESTOS PROHIBITIONS****CONTENTS**

## Para

**JUSTIFICATION FOR THE CONTINUED USE OF CHRYSOTILE IN ARMS, MUNITIONS OR WAR MATERIAL FOR EXPORT FROM THE UK**

- 1 General
- Guidance on completing the justification proforma
- 8 Serial number
- 9 Contract number
- 10 Column 1 - unique identification
- 11 Column 2 - description
- 12 Column 3 - list of chrvsotile containing items
- 13 Column 4 - justification for continued use
- 15 Column 5 - impact statement
- 17 Column 6 - additional information
- 18 Risk assessment
- 19 Security classification

**JUSTIFICATION FOR THE CONTINUED USE OF CHRYSOTILE IN ARMS, MUNITIONS OR WAR MATERIAL FOR EXPORT FROM THE UK****GENERAL**

1 UK Defence Contractors operating under the authority of the defence exemption to enable the export from the UK of arms, munitions or war material must meet the conditions detailed in the Certificate of Exemption, Annex A - Appendix 2.

2 Firstly, the Supplier (namely the exporter of the arms, munitions and war material) is required to provide a written statement of his commitment to the elimination of the use of chrysotile, where practicable and as soon as possible. A sample letter of commitment is attached at Appendix 2 to this Annex.

3 Suppliers are *not* required, at this time, to submit details of their elimination programmes to the RMSG but may, from time to time, be required to do so. In such instances the RMSG will be looking for evidence of:

- 3.1 Identification of all chrysotile containing components within defence equipment.
- 3.2 Identification of substitute materials/components.
- 3.3 A programme to eliminate the use of chrysotile.

4 In addition, the exporter of the arms etc. is required to register with the RMSG Secretariat all instances where he has invoked the defence exemption. This should be done by completing the attached justification proforma, in accordance with the instructions detailed below, and submit it to:

The Secretariat of the RMSG  
Ash 3c/P25d, #3311,  
MOD Abbey Wood,  
BRISTOL,  
BS34 8JH.

5 In signing off the justification proforma the Authorising officer is confirming that he is aware of the commitment made by his company to eliminate the use of chrysotile from defence equipment and has taken all reasonable steps, including consultation with the relevant contractors in the supply chain, to identify substitutes for the chrysotile component(s) listed and is satisfied that there is no suitable alternative to this/these component(s).

6 On receipt of the completed justification proforma the RMSG Secretariat will allocate a unique Serial Number and return a photocopy of the proforma to the Authorising officer. The return of the justification proforma acknowledges that the defence exemption has been invoked by the exporter and all contractors in the supply chain. It does not indicate approval by the RMSG that the terms and conditions of the Exemption Certificate have been met.

7 Notification that the justification proforma has been acknowledged by the RMSG should be promulgated, along with the Serial Number of the justification, to all companies in the supply chain.

## **GUIDANCE ON COMPLETING THE JUSTIFICATION PROFORMA**

### **Serial Number**

8 The Serial Number will be unique to the justification and will be allocated by the RMSG Secretariat on receipt.

### **Contract Number**

9 Each export contract requires a separate justification proforma to be completed. The Contract Number will be used by the RMSG Secretariat in compiling a database.

### **Column 1 - Unique Identification**

10 Enter the identification (e.g. NATO STOCK NUMBER) of the system, or subsystem that contains the chrysotile component(s).

### **Column 2 - Description**

11 Enter a brief description of the System e.g. missile.

### **Column 3 - List of chrvsotile containing items**

12 List all components within the system that contain chrysotile.

### **Column 4 - Justification for continued use**

13 Examples of Justification are:

13.1 A non-asbestos alternative has been identified but a modification programme to fit the new design to the equipment could not be completed within the planned service life of the equipment, which is to end DDMMYYYY. The use of the asbestos material remains crucial to the maintenance of full service capability until that date.

13.2 To date, technical investigations have failed to find a suitable non-asbestos alternative to this item, capable of maintaining the inherent safety of the equipment in e.g. braking/fire prevention/containment of steam. The planned service life of the equipment is to end DDMMYYYY. To maintain full service capability until that date, or until a suitable alternative item is found, it is essential that the original asbestos components be used.

13.3 A non-asbestos alternative cannot be identified within the planned service life, which is to end DDMMYYYY, because current technology does not provide a solution (explain as necessary). To maintain full service capability until that date asbestos components must still be used.

14 The examples given above are as a guide and are by no means exhaustive.

**Column 5 - Impact Statement**

15 Examples of Impact Statements are:

15.1 A prohibition on exporting this item would damage our ability to trade with allies.

15.2 A prohibition on exporting this item would weaken our defence manufacturing base.

15.3 A prohibition on exporting this item would result in a reduction on production runs thereby increasing the unit cost of defence equipment required by the UK.

16 The examples given above are as a guide and are by no means exhaustive.

**Column 6 - Additional Information**

17 This column can be used for any additional information required to support the justification. E.g. Information on exports of this/these product(s) to other countries.

**Risk Assessment**

18 The justification must include an assessment of the risks associated with the equipment specified. In addition the countersigning authority is confirming that "All precautions.....Act 1974".

**Security Classification**

19 Care should be taken on the information provided in terms of security and commercial classifications and the form be annotated accordingly.

**NOTE**

RESPONSIBILITY FOR THE ACCURACY AND INTEGRITY FOR ALL INFORMATION ON THE FORM IS ACCEPTED BY THE AUTHORISING SIGNATORY.

**EXAMPLE**

**JUSTIFICATION FOR SUPPLY OF CHRYSOTILE WITHIN SYSTEMS FOR EXPORT**

**SERIAL NO :**

Contract Number: xxxxx-1999. Purpose of Contract: (Follow on buy of Missiles)

UNIQUE IDENTIFICATION	DESCRIPTION	LIST OF CHRYSOTILE CONTAINING ITEMS (NSN) (DESCRIPTION)		JUSTIFICATION FOR CONTINUED USE (Include : Date of Final Delivery)	IMPACT STATEMENT ( IF EXEMPTION IS REMOVED)	ADDITIONAL INFORMATION
1410-99-123-4567	Missile X	2W 123456	Blast Pipe/Nozzle Assembly	A non-asbestos alternative has been identified but will not be available until DDMMYYYY. The use of the asbestos material remains crucial to the maintenance of full service capability until the replacement is available.  Date of Final Delivery: July 2005	Prohibiting the export of this item will result in Company A withdrawing from missile production which will weaken the Defence Manufacturing base	Further export orders are being pursued to supply Mod 4 missiles to 4 Foreign Governments.
		2W 567890	Closure Assembly			

RISK ASSESSMENT

All precautions will be taken in the handling and possible exposure to any asbestos in accordance with “The Control of Asbestos at Work Regulations 1987 etc” (amended in 1999) and the “Health and Safety at Work etc Act 1974”.  
Once moulded into their final components for the X rocket motor, the chrysotile asbestos fibres are bound by the cured phenolic resin (i.e. in the Durestos form), consequently, throughout their life there are minimal safety risks associated with storage and handling.

DECLARATION OF COMMITMENT

No suitable alternative is available for the items identified above.

The Supplier, (namely the Exporter), is committed to eliminating the use of chrysotile from defence equipment where practicable and as soon as possible and is operating a demonstrable elimination programme.

Authorised by: Name: ..... Signature:..... Date:..... Post:..... Company:..... Tel No:.....

**LEAFLET 40 ANNEX C APPENDIX 2****ASBESTOS PROHIBITIONS****SAMPLE LETTER - EXPORTERS**

Restricted Materials Streering Group (RMSG) Secretariat  
Ash 3c/P25d, #3311,  
MOD Abbey Wood,  
BRISTOL,  
BS34 8JH.

**ASBESTOS PROHIBITIONS - CONDITIONS OF EXEMPTION**

1 This letter is furnished in accordance with the conditions imposed by the Secretary of State for Defence when granting an exemption, in the interests of national security, to all persons connected with the production of, or trade in arms, munitions or war materials, incorporating chrysotile asbestos, intended for export from the United Kingdom (other than for the fulfilment of any agreement between the United Kingdom Government and another Government) from all the requirements and prohibitions imposed by regulations 3(2), 7(1), 7(2) and 7(3) of the Asbestos (Prohibitions) Regulations 1992, as amended by the Asbestos (Prohibitions) (Amendment) Regulations 1999 (SI 2373/99).

2 I write on behalf of *[insert company name]* to confirm that this company:

2.1 Is committed to eliminating the use of chrysotile asbestos in all arms, munitions and war materials intended for export from the United Kingdom, wherever practicable and as soon as possible,

2.2 Will *only* use chrysotile asbestos in arms, munitions or war materials intended for export from the United Kingdom where there is no suitable alternative to such use,

2.3 Will provide the Secretary of State for Defence with:

2.3.1 A verifiable statement, for each contract, that there is no suitable alternative to the use of chrysotile asbestos in the arms, munitions or war materials to be supplied under that contract, and that all reasonable steps will be taken to alert the export Customer to the presence of Chrysotile and to provide advice on its safe handling and disposal; and

2.3.2 Any other relevant information which he may require from time to time; and

3 Understands that the aforementioned Exemption may be varied or revoked by the Secretary of State at any time and in any event will expire no later than 23 November 2001.

*[Signed]*  
*[Company Position]*